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COURT OF APPEALS
DIVISION II

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STATE OF WASHINGTON

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No. _____

IN THE COURT OF APPEALS
THE STATE OF WASHINGTON
DIVISION II

IN THE MATTER OF THE
PERSONAL RESTRAINT OF
JASON STOMPS

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Petitioner, Jason Stomps, by and through his attorney, Michael C. Kahrs, of the Kahrs Law Firm, P.S., applies for relief from personal restraint.

I. STATUS OF PETITIONER

Petitioner is in custody at the Washington State Reformatory, Monroe Corrections Center, having previously been committed to the jurisdiction of the Department of Corrections.

II. STATEMENT OF FACTS

A. INTRODUCTION

We, as a state, have delegated the capture of fugitives to bail recovery agents (BRA). One may approve or disapprove of this but the simple fact remains, these individuals are used throughout our legal system to lawfully locate and arrest fugitives. Jason Stomps was one of those individuals who, based on the information he was provided and his own personal observation, attempted to arrest such a fugitive. Unfortunately for him, the information he had received as to the fugitive's location was flawed. However, Stomp's actions were objectively reasonable based on the facts he had possession of when he breached the front door to arrest the fugitive. The objective facts he possessed at the time established a reasonable suspicion that the fugitive was present in the house and Stomps is entitled to the same protections as police officers when attempting to arrest a fugitive from justice.

B. BACKGROUND OF JASON STOMPS

Jason Stomps spent 12 years serving his country. Declaration of Jason Stomps. Exhibit 1 (Declaration of Jason Stomps). While in the military, he was trained in law enforcement, both civilian and military, covering many topics. *Id.* Washington requires all bail recovery agents to have a minimum amount of study, no less than 32 hours of pre-license training in field operations and take an exam. Wash. Admin. Code 308-19-306. Before he took the exam to be a bail recovery agent (BRA), Stomps took an class through an academy, not a self-study program. *Id.* At the academy, he studied various ways to locate and conduct an arrest of a fugitive, including both planned and unplanned forced entries. *Id.* Because of his prior military training, he was not required to spent training time in the field. *Id.*

During his time as a BRA, he arrested over 200 individuals in a multitude of states, usually at third party's homes. VRP 261-62.¹ He also had made approximately 12 forced entries. Generally, the forced entries were unplanned because there was no expectation the individual would be at the house until they were spotted through surveillance. *Id.* Only a fool would stay at their residence with knowledge of an outstanding arrest warrant. *Id.*

¹ This cites to the Verbatim Report of Proceedings from the direct appeal. Stomps has moved to have them made available for this PRP.

C. THE INCIDENT

Courtney Barnes' bail contract had been arranged by his girlfriend Sinan Hang, who had listed the Waleskes' residence as her address on the bail bond contract signed November 26, 2013. Exhibit 2, VRP 226-27, 233. Annette Waleske had known Hang since high school and had given her permission in the past to use her address as her mailing address – a permission which Hang exceeded on the contract. VRP 140. When Barnes failed to appear twice, Regan Bail Bonds contracted with Jason Stomps to apprehend the fugitive. VRP 255.

Stomps picked up a copy of the case file from Regan Bail Bonds. *Id.* He made a copy of the file and reviewed it. *Id.* Stomps searched two databases, Spokeo and IRB, for the address of the co-signer and he verified the address. VPR 271-72. He decided not to check Barnes' address because he had information Barnes was with his girlfriend. VPR 275. Stomps' partner David Smith told the police (Clark County Sheriff's Office) that Stomps and he knew that the idemnitor and the fugitive were in a romantic relationship. Exhibit 3, p. 11 (Statement by David Smith). This information was provided by Amanda, a Regan Bail Bonds employee who obtained it from a confidential informant. VRP 275-76. Stomps handed the file to his partner Smith to conduct surveillance at the address given by Hang. VPR 255. Smith was supposed to contact Stomps if he spotted the fugitive. VPR 257-58.

After conducting surveillance, Smith phoned Stomps to let him know he thought he had spotted Barnes. Exhibit 4 (police report).² Stomps then drove to the Waleske residence with Victoria Jones, his fiancée. VPR 241. When he arrived Stomps donned his fugitive black fugitive recovery gear including a vest with yellow lettering indicating “Fugitive Recovery.” VPR 158, 220, 242, 281. He met with Smith and they approached the front door. VPR 258.

Stomps then approached and knocked on the door. A young woman came to the door and opened it slightly to see who was there. Stomps fully identified himself and Smith and why they was there multiple times. VPR 80-81, 83, 101, 114, 259-60; Exhibit 3, p. 12. Smith phrased it as “multiple multiple times.” Exhibit 3, p. 12. Stomps explained he was there for Barnes and they needed access to the house to search for him. *Id.* Stomps then had a discussion with a second individual who claimed a warrant was needed. VPR 260. She told Stomps she didn’t know anybody by that name and shut the door.

Shortly there after, a man came to the door that he could see in the plate-glass window by the front door. VPR 259. Stomps again said he was a

² The State objected to any hearsay testimony by Stomps as to what Mr. Smith had seen at the house and why Mr. Smith had called Stomps in the first place. VPR 241, 258. The prosecutor said that Mr. Smith would have to be called as a witness. VPR 258. He was not a witness at the trial.

bail enforcement agent and was there for Courtney Barnes and they would need access to search the house. *Id.* At this time, another man without a shirt and a short haircut stuck his head out the window and Stomps again explained why they were there and that they had to search the house. VPR 260. That individual wrongly told Stomps that he needed a warrant. *Id.*

At 8:35 p.m. Taylor Waleske called 911 to report Stomps being at the address and asking for Courtney Barnes.³ VPR 368. She said that there was “someone at my house right now banging on our door and asking for someone that doesn't live here, and he has a gun.” VPR 115- 16. Police were dispatched to the scene of a reported forced entry in progress at the residence. VPR 79, 131, 145- 46.

Stomps then spotted through the window next to the door an individual running down the stairs who was approximately six feet tall and had a crew cut which matched the file photo he had of the defendant. VPR 261. 268. Smith said “[t]hey were “they were runnin around in the house and they were movin around real quick and, and uh, and they were hidin from us in the house like duckin behind things so.” Exhibit 3, p. 12. Stomps thought he had seen the subject make a turn and head toward the back of the house. VPR 264. Given his current knowledge, he directed Smith to run around to the

³ Any statement by Stomps is inaudible on the 911 tape until he enters the house. VPR - 368-79.

back of the house to prevent the fugitive from escaping. VPR 261, 264. Smith saw an individual at the back who met the fugitive's description. Exhibit 3, pp. 12, 16, 21-22.

Stomps then called or yelled at Jones to call 911 and let the police know to they were going to force an entry. VPR 265. He did not ask for police backup because based on his experience, nine out of ten times they will not respond. VPR 284, 286-87. He also asked Jones to bring a breaching tool. *Id.* Stomps' s wife Victoria,⁴ who was a bail agent with Regan Bail Bonds, was at the scene and testified that Stomps had knocked on the door and yelled, "Bail enforcement, open up." VPR 242-43. Stomps warned the inhabitants that he would force an entry if they did not let him search the house.⁵ VPR 265. Victoria Jones called 911 at 8:41 on a non-emergency call and informed them Regan Bail Bonds was about to make a forced entry into the address." VPR 380.

After the residents refused to give him entry, Stomps broke down the door with a large hammer. VPR 101, 114, 172. Smith entered the house through an unlocked slider in the back. Exhibit 4. Stomps pulled out his pistol because the Barnes was a felony fugitive from Oregon with three active

⁴ The two were married after the incident. VPR 240.

⁵ There is a 911 tape of the conversation between Taylor Waleske and the operator. VPR3 368-379. It starts after Stomps arrived at the scene, identified himself and asked for Courtney Barnes.

warrants and he was entering an unknown house. VPR 266-67.⁶ During his interview, Smith made it clear that BRAs assume everybody in a residence is armed until they can prove otherwise. Exhibit 3, p. 11.

In the house, it was loud and chaotic. VPR 267. Stomps met up with his partner Smith. *Id.* Stomps ordered the individuals who kept running up and down the stairs that he needed them to come down. VPR When they finally came down Stomps told the two males to handcuff themselves together for safety reasons "because I needed to clear the house and they were not listening to us." VPR 269. "I had no idea how many people were in the house, who was in the house, if there were weapons in the house." VPR 269. He wanted the people out of the way because he "did not (want) anybody to get hurt or us to get hurt or - - I was concerned for everybody's safety, just not mine." VPR 270.

Upon arrival at the scene, police observed that the front door of the residence had been "blown completely off it hinges" and that Stomps, a bail enforcement agent, was standing just inside the entryway holding a fully loaded operable handgun. VPR 148- 49, 209, 217. He was immediately detained without incident. VPR 108, 151.

⁶ The residents claimed he pointed his gun at them during this process. VPR 90- 92, 104-05, 128. Stomps stated instead that he had the gun pointed up the stairs and the residents were too the left. VPR 279-80. that had not been searched although he did enter the house with it drawn. VPR 271.

Stomps told the police he was there to serve a fugitive warrant and that the fugitive's girlfriend who had posted the bail lived at the residence. He added that a confidential informant had called him a four o'clock and told him that Barnes was coming back and forth from the house all day. VRP 169.

D. THE TRIAL

Trial counsel filed a *Knapstead* motion to obtain dismissal based on Stomps conducting an unplanned arrest. It was based the claim it was not a premeditated planned forced entry. Exhibit 5 (citing RCW 18.185.010; RCW 18.185.300). There was a discussion on what was premeditation. Before deliberations, a jury instruction on the defense to the burglary charge based on planned forced entry pursuant to RCW 18.185.300 was submitted by the state and not objected to by trial counsel. VPR 334. Nor was a jury instruction defining premeditation submitted. VPR 345-361. Other jury instructions were standard WPIC instructions for burglary, kidnapping and assault, among others. *Id.* No instructions were asked for which set forth the rights of a bail recovery agent to enter the house of a third party and use reasonable force. *Id.* Stomps was convicted of burglary, three counts of first degree assault and three counts of kidnapping. Exhibit 6 (Judgment and Sentence). He received four firearm enhancements.

III. GROUNDS FOR RELIEF

1. Stomps meets the requirement of RCW 10.73.100(1) based on new evidence for this Court to consider his ineffective assistance of counsel claim.

2. Stomps meets the requirement of RCW 10.73.100(4) because there is insufficient evidence to support the conviction based on the facts and evidence.

3. Stomps meets the requirement of RCW 10.73.100(6) based on a significant change in the law which is material to his conviction.

4. Stomps meets the equitable tolling requirement for this Court to find he meets the gateway actual innocence criteria for this Court to consider the ineffectiveness of Stomp's trial counsel.

5. Trial counsel was ineffective by not introducing jury instructions which outlined the bail bond agent's legal right to make an unplanned entry based on emergent circumstances on to the property of a third party and call Stomps' co-defendant David Smith as a witness.

6. Stomps is factually innocent of the charges against him.

IV. ARGUMENT

A. STOMPS WILL SHOW THAT HE IS NOT TIME BARRED AND IS INNOCENT OF THE CRIMES OF CONVICTION.

Stomps first shows that he is entitled to the tolling exemptions in

RCW 10.73.100 and he is entitled to a new trial based on new evidence, insufficient evidence and the law. He also shows he had met the gateway actual innocence tolling and his trial counsel was ineffective. Finally, the evidence shows that Stomps is actually innocent of any criminal behavior because he had a reasonable believe that the fugitive Courtney Barnes was at the house.

B. PETITIONER MUST SHOW HE IS CURRENTLY RESTRAINED AND THAT THE RESTRAINT IS UNLAWFUL.

RAP 16.4 states that the individual challenging his/her unlawful confinement must show they are under restraint. A prisoner can be under restraint either through a violation of the United State Constitution or the Constitution or laws of the State of Washington. RAP 16.4(b), (c)(2), (6), (7). Stomps is under the jurisdiction of the Department of Corrections, having been convicted by a trial court and sentenced to 180 months in prison. *State v. Stomps*, 2016 WL 3965175 (July 19, 2016).

C. STOMPS IS NOT TIME BARRED TO ATTACKING HIS CONVICTION UNDER RCW 10.73.100 AND ACTUAL INNOCENCE.

1. Stomps Has Submitted New Evidence Showing His Trial Counsel Was Ineffective Overcoming the Time Bar of RCW 10.73.090.

RCW 10.73.100(1) permits avoiding the time limit in RCW 10.73.090 for newly discovered evidence if there was reasonable diligence obtaining the

evidence and filing the petition. Under normal conditions, there is a five part test.

To prevail on a claim of newly discovered evidence, a personal restraint petitioner must show evidence that (1) will probably change the result of the trial, (2) was discovered since the trial, (3) could not have been discovered before trial by the exercise of due diligence, (4) is material, and (5) is not merely cumulative or impeaching.

State v. Williams, 96 Wn.2d 215, 223, 634 P.2d 868 (1981). Missing any one of these factors means the petitioner is not entitled to relief. *Id.* However, when claiming ineffective assistance of trial, one of the elements must be ignored when the facts themselves highlight trial counsel's ineffectiveness. Specifically, this element is the requirement that the evidence could not have been discovered prior to trial with the exercise of diligence. If the argument is that trial counsel discovered the evidence and failed to use it, like it is here, then the defendant's lack of control over trial strategy means he should not be penalized for his trial counsel's incompetence.⁷

As for the rest of the required prongs, the new evidence is the evidence of what Smith saw and the expert testimony about a BRA's job. This information is material to establishing Stomps had a reasonable suspicion based on evidence to search the house for the fugitive. Such information, put

⁷ To require otherwise is to force the petitioner to make a circular argument. He cannot argue diligence because his trial counsel did not use the information he had possession of at trial when it is trial court's diligence in using that information which is being challenged.

before the jury, would have changed the results of the trial. The evidence was discovered by Stomps after the trial but as explained, it was diligent to him, not his ineffective attorney. It is not merely cumulative because it establishes two independent confirmations that Stomps and Smith reasonably believed Barnes was in the house and they were doing the proper job as BRAs.

Finally, the PRP was filed with reasonable diligence. The evidence was obtained after the direct appeal and before the writ challenged the insufficient evidence and innocence was filed on May 8, 2018. The final district court decision denying relief was dated November 20, 2018 and the notice of appeal was filed December 17, 2018. It is currently pending in the Ninth Circuit Court of Appeal. A pardon/clemency application was filed March 8, 2019. Finally, counsel has provided all services pro bono and has other clients. This challenge was filed less than five months after appealing the federal court's decision.

Effective assistance of counsel is "fundamental and essential to fair trials." *Gideon v. Wainwright*, 372 U.S. 335, 344, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963). "Effective assistance of counsel is guaranteed by both the federal and state constitutions." *In re Pers. Restraint of Woods*, 154 Wn.2d 400, 420, 114 P.3d 607 (2005) (citing U.S. Const. amend VI; Wash. Const. art. I, § 22). To prevail on an ineffective assistance of counsel claim, Petitioner must demonstrate first that the performance of his counsel fell below an objective

standard of reasonableness, and second that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Strickland v. Washington*, 466 U.S. 668, 694, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). Failure to satisfy either prong of the *Strickland* test removes the need to consider the other. *Id.* at 688. *See also Woods*, 154 Wn.2d at 420-21. Counsel’s performance is deficient when it falls below an objective standard of reasonableness. *State v. Stenson*, 132 Wn.2d 668, 705, 940 P.2d 1239 (1997). Prejudice is presumed when there is a reasonable probability that the outcome would be different if trial counsel had not been deficient. *In re Pers. Restraint of Pirtle*, 136 Wn.2d 467, 487, 965 P.2d 593 (1998).

There is a “strong presumption that counsel’s conduct falls within the wide range of reasonable professional assistance,” and that “[j]udicial scrutiny of counsel’s performance must be highly deferential,” *Strickland*, 466 U.S. at 689. However, defense counsel must, “at a minimum, conduct a reasonable investigation enabling him to make informed decisions about how best to represent his client.” *Sanders v. Ratelle*, 21 F.3d 1446, 1456 (9th Cir. 1994) (emphasis in original); *see also Jennings v. Woodford*, 290 F.3d 1006, 1013 (9th Cir. 2002). A defense attorney’s failure to consider alternate defenses constitutes deficient performance when the attorney “neither conduct[s] a reasonable investigation nor ma[kes] a showing of strategic reasons for failing

to do so.” *Sanders*, 21 F.3d at 1456; *see also Phillips v. Woodford*, 267 F.3d 966, 980 (9th Cir. 2001). Counsel “has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary.” *Strickland*, 466 U.S. at 691. The failure to investigate is especially egregious when a defense attorney fails to consider potentially exculpatory evidence:

A lawyer who fails adequately to investigate, and to introduce into evidence, information that demonstrates his client’s factual innocence, or that raises sufficient doubts as to that question to undermine confidence in the verdict, renders deficient performance.

Lord v. Wood, 184 F.3d 1083, 1093 (9th Cir. 1999) (finding defense counsel’s performance deficient because he failed to interview or call at trial three witnesses who had told police and investigators that they saw the victim alive a day after the defendant allegedly killed her); *see also Hart v. Gomez*, 174 F.3d 1067, 1070 (9th Cir. 1999) (finding defense counsel’s performance deficient because he failed to review or introduce at trial documents corroborating defense witness’s testimony); *Sanders*, 21 F.3d at 1457 (finding defense counsel’s performance deficient because he failed to investigate or introduce at trial evidence implicating his client’s brother). This case falls directly under *Lord*, *Hart* and *Sanders*.

In Washington, a BRA may make an unplanned entry, totally avoiding the requirements of RCW 18.185.300 altogether. Declaration of Johnson.

Planned forced entry is defined as a premeditated forcible entry into a building . . . without the occupant's knowledge or consent. RCW 18.185.010(12). It explicitly does not cover situations involving an actual chase without advanced planning. *Id.* This is what the situation was on the ground that day in March because both Stomps and Smith had no idea of whether or not Barnes was there until they both verified who they believed to be the fugitive. The defense to burglary jury instruction failed to instruct on unplanned entries, instead using the jury instruction on planned entries.

Trial counsel had filed a *Knapstead* motion asserting that Stomps had conducted an unplanned entry, therefore RCW 18.185.300 did not apply to this case.⁸ It was rejected by the trial court. Counsel never again raised this as an issue, did not present an alternative jury instruction based on the lack of premeditation, and acquiesced to the State's instruction on a planned entry, ignoring his prior *Knapstead* argument, causing the jury to be misinformed about the law.

Counsel also failed to call Smith as a witness. Smith would have testified as to what he saw and told Stomps which in turn caused Stomps to have the reasonable belief the fugitive was in the house before the forced entry. He would have described the actions of the inhabitants of the house

⁸ *State v. Knapstad*, 107 Wn.2d 346, 729 P.2d 48 (1986).

prior to entry. During the trial Stomps was prevented from using hearsay to explain what Smith had told him about the sighting of Barnes in the house.⁹ The testimony of Smith was crucial to establishing the reasonable suspicion necessary to legally justify breaching the front door. The bottom line – trial counsel was ineffective at crucial times and cannot justify the actions based on trial strategy. Stomps is entitled to a new trial.

2. There Is Insufficient Evidence to Convict Stomps.

There is insufficient evidence to convict Stomps of all criminal charges. The prior decisions relied on the decision in *Portnoy* to rule against Stomps in his challenge to the sufficiency of the evidence. *See State v. Portnoy*, 43 Wn. App. 455, 718 P.3d 805 (1986). In *Portnoy*, the defense failed to provide support for the proposition that BRAs are entitled to use greater force than private citizens. *Id.* at 465-66. However, in this PRP Stomps has provided the appropriate justification for the appropriate use of force for a BRA. He has also provided legal support for the proposition that he had probable cause to enter the house of a third party and that he need not follow the requirements of RCW 18.185.300 because it was not a planned forced entry.

⁹ Smith was in basically the same position as Stomps. He was willing to be interviewed by the Clark County Sheriff's Office when he could have refused.

Washington explicitly follows the Supreme Court's decision in *Taylor v. Taintor*, 83 U.S. (16 Wall.) 366, 21 L.Ed. 287 (1872). RCW 18.185.260(4). The Supreme Court stated:

When bail is given, the principal is regarded as delivered to the custody of his sureties. Their dominion is a continuance of the original imprisonment. Whenever they choose to do so, they may seize him and deliver him up in their discharge; and if that cannot be done at once, they may imprison him until it can be done. They may exercise their rights in person or by agent. They may pursue him into another State; may arrest him on the Sabbath; *and, if necessary, may break and enter his house for that purpose.* The seizure is not made by virtue of new process. None is needed. It is likened to the rearrest by the sheriff of an escaping prisoner. In 6 Modern it is said: 'The bail have their principal on a string, and may pull the string whenever they please, and render him in their discharge.' The rights of the bail in civil and criminal cases are the same. They may doubtless permit him to go beyond the limits of the State within which he is to answer, but it is unwise and imprudent to do so; and if any evil ensue, they must bear the burden of the consequences, and cannot cast them upon the obligee."

83 U.S. at 371–72 (Emphasis added.). In doing so, they perform these functions so the state does not have to.

A judicial officer determines that an individual is eligible for bail and sets the amount. A judicial officer can also revoke bail and recommit the bailee or cause a warrant to be issued. The benefits of the system are not only monetary to the bail company but also of financial benefit to the state. Without bail, housing, feeding, clothing, guarding the individual would be costs borne by the state. By releasing the individual into the custody of the

bail company, the state is saving these costs and the company is performing an important function in the criminal justice system. "Their dominion is a continuance of the original imprisonment." *Taylor*, 83 U.S. at 371. Another way to define custody is that while "a prisoner is out on bond he is still under court control, though the bounds of his confinement are enlarged. His bondsmen are his jailers." *Carlson v. Landon*, 342 U.S. 524, 547, 72 S.Ct. 525, 96 L.Ed. 547 (1952).

In modern times, the bail bondsman is an arm of the court performing a service in aid of civil law. As such, he should be subject to procedures that recognize and protect the rights of the accused as much as do other agents of law enforcement.

Ouzts v. Maryland Nat. Ins. Co., 505 F.2d 547, 558 fn. 4 (9th Cir. 1974) (quoting *On Improvements in Judicial Machinery: Hearing on S. 2855 before the Senate Subcomm. on the Judiciary*, S. 89 Cong., 2d Sess. 6 (1966) (Statement of Sam Ervin)). Having established that BRAs are an important part of the criminal justice system, they must have the same rights as any police officer serving a warrant on an individual.

To do their job, BRAs must be able to make forced entries and control situations for safety and self-protection. Exhibit 7 (Declaration of Dr. Brian Johnson). Such rights are reflected in the common law. *Applegate v. Lucky Bail Bonds Inc.*, 197 Wn. App. 153, 155, 387 P.3d 1128 (2016) (citing *Restatement (Second) of Torts* § 205 and § 206). Section 205 is titled "Entry

to Recapture or to Prevent Crime and in Related Situations.” *Id.*, 157 - 58. It permits entry onto the property of a third party to recapture an individual with a warrant. *Id.*, at 158 fn. 1. Section 206 is titled “Forcible Entry of Dwelling to Arrest, Recapture, Prevent Crime, and Related Situations.” *Id.*, at 158. Section 206 permits a forced entry where the individual (read BRA) reasonably believes the fugitive is in the dwelling. *Id.*, at 158 fn. 2. This is true even though the person sought is not in the dwelling that was entered. *Id.* The relationship between a bail bond agent and a fugitive and is also contractual, permitting them “contractual right to break into the home of the person whom he had bonded in order to arrest him and revoke the bond.” *Portnoy*, 43 Wn. App. at 459.

BRAs have many of the same powers that police do when looking for a fugitive. Exhibit 7. Police may use reasonable suspicion to stop individuals to investigate a crime. *United States v. Brignoni-Ponce*, 422 U.S. 873, 878, 95 S.Ct. 2574, 45 L.Ed.2d 607 (1975). Reasonable suspicion exists when “an officer is aware of specific, articulable facts which, when considered with objective and reasonable inferences, form a basis for particularized suspicion.” *United States v. Montero-Camargo*, 208 F.3d 1122, 1129 (9th Cir. 2000) (*en banc*). The assessment of whether or not such a suspicion exists is whether the totality of the circumstances justify the action. The second is that the individual (in a criminal context) has or is about to commit a crime. *Id.* It is

articulated in the *Restatement (second) of Torts* that it requires a reasonable belief.

BRAs must also be able to use reasonable force because BRAs face the same risk of injury as police officers during an arrest/apprehension. Exhibit 7. Reasonable force requires evaluation using the Fourth Amendment reasonableness standard. *See Graham v. Connor*, 490 U.S. 386, 395, 109 S.Ct. 1865, 104 L.Ed.2d 433 (1989).

Determining whether the force used to effect a particular seizure is “reasonable” under the Fourth Amendment requires a careful balancing of “the nature and quality of the intrusion on the individual’s Fourth Amendment interests” against the countervailing governmental interests at stake.

Id. At 396 (quoting *Tennessee v. Garner*, 471 U.S. 1, 8, 105 S.Ct. 1694, 85 L.Ed.2d 1 (1985)). The application of this standard requires paying “careful attention to the facts and circumstances of each particular case.” *Id.* In other words, one must look at “the totality of the circumstances.” *Garner*, 471 U.S. at 8-9.

An analogous situation is that of federal agencies like the Federal Bureau of Investigation and the United States Marshall’s Office. *See e.g. The Fugitive* (Warner Brothers 1993). The United States Supreme Court examined the issue of whether or not a federal agent making a warrantless entry into a house was entitled to qualified immunity. *Anderson v. Creighton*, 483 U.S. 635, 107 S.Ct. 3034, 97 L.Ed.2d 523 (1987). In making this

determination, the court held that liability turns on “the ‘objective legal reasonableness’ of the action.” *Id.* at 639 (quoting *Harlow v. Fitzgerald*, 457 U.S. 800, 819, 102 S. Ct. 2727, 73 L. Ed. 2d 396 (1982)). Because Stomps was performing the same function on behalf of the State of Washington, his action must also be viewed as to the reasonableness given the state of law and what an objectively reasonable bail recovery agent would do.

Finally, in Washington a BRA may make an unplanned entry thus totally avoiding the requirements of RCW 18.185.300 altogether. Exhibit 7. Planned forced entry is defined as a premeditated forcible entry into a building . . . without the occupant’s knowledge or consent. RCW 18.185.010(12). Premeditation is described as requiring “more than a moment in point of time.” RCW 9A.32.020(1). Intent to do an act (like murder) without premeditation subjects one to a lesser conviction (like second degree murder). It explicitly does not cover situations like those facing Stomps where the decision to enter was made at the scene and was based on viewing an individual who resembled the fugitive. This is what the situation was on the ground that day in March because both Stomps and Smith had no idea of whether or not Barnes was there until they both verified who they believed to be the fugitive.

a) *Burglary.*

This Court, when rendering its opinion denying Stomps’ claim there was

insufficient evidence for the conviction of burglary, did not have the complete set of facts and law including the proper legal standard to evaluate a bail recovery action in a third party's property. The court could only rely on the jury instructions which both permitted the inference that an individual who enters or remains in a building "unlawfully" may be found guilty of the crime and there is no such thing as an unplanned entry. *State v. Stomps*, p. 4-5. In support of its decision, it relied on Stomps entering the known home of the fugitive's girlfriend, the individuals inside the home told him they did not know the individual. *Id.*, p. 4.

However, under the laws governing arresting fugitives and *Applegate* discussed above, Stomps need only show that an objective examination of the evidence would show a reasonable belief that the fugitive was present in the dwelling to be searched. The evidence supporting this finding includes:

- 1) The signer of the bond listed the relationship between the fugitive and the signer of the bond as boy friend – girl friend (Exhibit 2) and this was verified by a confidential informant (VRP 275-76; Exhibit 3, p. 14);
- 2) Stomps had done his due diligence in using modern investigative tools to verify the address of the girlfriend (VPR 271);
- 3) Stomps had been given the information by a confidential informant that the fugitive was at his girlfriend's address (VRP 275);

- 4) Independent of each other, both Stomps and Smith believed they had seen the fugitive in the house (VPR 261; Exhibit 3, pp. 12, 16, 21-22); and
- 5) The fact that the inhabitants said Barnes was not in the house is irrelevant because anybody housing a fugitive would deny them being in the house (VPR 262).

Jury Instruction No. 12 set forth the requirements to be convicted of burglary. VPR 352-53. The first prong required Stomps to unlawfully enter the building to commit a crime. However, given the powers of a BRA and that he has a reasonable belief that Courtney Barnes was at the home of his girlfriend who posted bond for him, he did not have the intent to commit a crime and the entry was not unlawful. The inference instruction, No. 14, again permitted the jury to draw the inference that his presence in the building was to commit a crime. VPR 353. However, because Stomps had a reasonable suspicion to believe that the fugitive was in the house, there can be no such inference. As regards Instruction No. 16, Stomps was privileged to enter the house as a licensed BRA with a reasonable belief the fugitive was in the house under *Applegate*. VPR 354. Instruction 17 which provides a possible defense to burglary completely ignores unpremeditated entries, relying only on the statutory right of planned entries pursuant to RCW 18.185.300. *Id.*

b) *Kidnapping.*

To be convicted of kidnaping, one must “restrict another person’s movements without consent and without legal authority” as set forth in

Instruction No. 19. VPR 355. Stomps had legal authority to be in the house per *Applegate*. He had probable cause to believe Courtney Barnes was present in the house. Once he was in the house, he had legal authority to use reasonable force for safety reasons.

As previously shown, *Graham v. Connor* “requires a careful balancing of ‘the nature and quality of the intrusion on the individual’s Fourth Amendment interests’ against the countervailing governmental interests at stake. *Graham v. Connor*, 490 U.S. at 396 (quoting *Garner*, 471 U.S. at 8). The governmental interest is in arresting fugitives and here, the fugitive had three warrants.

The reasonable force exerted by Stomps resulted in no physical injuries to any of the individuals in the house. The other instructions, Nos. 20-22 rely on an individual being abducted but such an abduction requires lack of legal authority. VPR 355-57. As Stomps had the legal authority, he did not abduct the three individuals.

The facts cited by this Court involves Stomps ordering everybody downstairs after entering the home. An objective review of the facts does not require Barnes to be present, only that there was there was a reasonable suspicion that he was present. Exhibit 7.

The United States Supreme Court was absolutely clear that the reasonable standard applies to the seizure resulting in Stomps’ conviction for

kidnapping. You must balance “the nature and quality of the intrusion on the individual's Fourth Amendment interests” against the countervailing governmental interests at stake. *Graham v. Connor*, 490 U.S. at 396 (quoting *Garner*, 471 U.S. at 8). Reasonableness focuses on the facts, not the subjective fear of the individuals who may be in a particular situation.

Stomps was attempting to arrest Courtney Barnes on a warrant. Although the warrant was for a non-felony, he also had a felony warrant out of Oregon along with the Department of Corrections warrant. Given the probable cause he had to go to that house to arrest Barnes, the government's interests outweigh those of the inhabitants, especially since there was no physical abuse of any of the inhabitants.

c) *Assault.*

The jury instruction for assault (No. 16) requires unlawful force. VPR 354. Unlawful force is an objective assessment of reasonable force as set forth in *Graham v. Connor*, 490 U.S. 386. Mr. The fact that the three individuals in the house were scared is again, totally irrelevant.¹⁰ Even temporarily pointing a gun at the individuals is a rational action in a chaotic situation.¹¹

¹⁰ Stomps testified he “really felt bad” for what the three individuals went through. VPR 271. But such emotions cannot be part of the calculus of whether or not an objective standard of review has been met.

¹¹ The appellate court acknowledged that there were differences in testimony on this fact and given the chaotic and fluid situation with three individuals facing someone in a tactical vest with a weapon, it is not surprising that they would focus on the the gun and claim it

Stomps had lawful authority to be in the house and to protect himself and others by taking control of the situation. Stomps was sentenced with three weapons enhancements as a result of these conviction.

Stomps would also like to direct this Court's attention to *Mease v. Georgia*, 302 S.E. 429 (GA. 1983). Mease was convicted of reckless conduct waiving the pistol around. *Id.* at 431. While stating there was no evidence that a pistol was waived around, the Georgia appellate court made the point that pointing a pistol at persons met suddenly and then lowered immediately when it is recognized that the individuals were not the fugitive is appropriate under the circumstances. The three individuals claimed that the Stomps' weapon was pointed at them but provided no information on when or how long. Stomps said they were to the left of him. Based on this, there is insufficient evidence to find that Stomps assaulted the three individuals.

3. There Has Been a Significant Change in Law Permitting Stomps to Attack His Conviction.

RCW 10.73.100(6) permits filing of a collateral attack more than one year after the final judgment in a criminal case as set forth in RCW 10.73.090 if there was a significant change in law. When evaluating whether or not there has been a significant change in law, our courts ask if the intervening opinion

was aimed at them because this is rational if mistaken testimony. Obviously, all eyes would be focused on the gun even if it wasn't focused at them.

“has effectively overturned a prior appellate decision that was originally determinative of a material issue” and if it was, “the intervening opinion constitutes a significant change in the law.” *In re Pers. Restraint of Lavery*, 154 Wn.2d 249, 258, 111 P.3d 837 (2005). The decision in *Applegate* does just this. *Applegate*, 197 Wn. App. at 155.

The holding of *Applegate* acknowledges that “rogue bounty hunters” may face criminal charges.¹² *Id.* at 165. But in doing so, it also establishes in Washington that BRAs have a common law privilege to enter into a third party dwelling if they have a reasonable belief the fugitive is there. *Id.* at 161-16.

The privilege recognized by *Taylor's* common law antecedents is not limited by the ownership and privacy rights of third parties. Instead, it is limited by the obligation of the bondsman to act reasonably. The law “considers the principal as a prisoner” over whom bail may exercise its controlling power “at all times *and in all places*.”

Id. at 161-62 (quoting *Nicolls v. Ingersoll*, 7 Johns. 145, 156 (N.Y. 1810) (emphasis in the original), *cited with approval in Taylor*, 83 U.S. (16 Wall.) at 371 n.10. The *Applegate* court went on to quote *Nicollis* that “[a] reasonable demand of entrance and a refusal” must precede a forcible entry, and ‘undue and unnecessary force’ may not be used.” *Id.* at 161-62

¹²Because Stomps based his decision to enter both on prior research and his and Smith’s apparent visual citing of the fugitive, his actions certainly were not “rogue.”

(quoting *Nicolls*, 7 Johns at 148-49. *Applegate* critically modifies *Portnoy* by defining the legal standard for entry into property of third parties.

In rejecting the limited holding in *Portnoy*, Division I referred to other jurisdictions in acknowledging that the common law permits individuals to enter the property of third parties under certain circumstances. *Applegate*, 197 Wn. App. at 165 (citing *Livingston v. Browder*, 285 So.2d 923 (Ala. 1973); *Mease*, 165 Ga. App. 746; *State v. Mathis*, 349 N.C. 503 (1998)). Each of these cases stand for the proposition that entry into a third party's residence can be appropriate. As the concurrence in *Mease* states, "[t]he primary question in this case thus is, can one with an apparent right to arrest another later convert that into a full-blown search of the house of a third-party homeowner without the latter's permission? The majority opinion answers "yes." *Mease*, 302 S.E.2d at 432. Likewise, the *Livingston* Court stated that "[i]t also appears that if an officer or private person has reasonable and just cause to believe that the person sought is on the premises, he may enter for the purpose of arresting one who is accused of a felony . . ." *Livingston*, 285 So. at 926. These are all cases cited with approval in *Applegate*.

D. STOMPS IS ENTITLED TO EQUITABLE TOLLING ON HIS GATEWAY ACTUAL INNOCENCE CLAIM.

1. Stomps Is Entitled to Equitable Tolling.

The one-year time bar of RCW 10.73.090 is not jurisdictional, thus it

is subject to equitable tolling. See *In re Pers. Restraint of Hoisington*, 99 Wn. App. 423, 993 P.2d 296 (2000). Equitable tolling is a remedy that “permits a court to allow an action to proceed when justice requires it, even though a statutory time period has nominally elapsed.” *State v. Duvall*, 86 Wn. App. 871, 874, 940 P.2d 671 (1997). Historically, equitable tolling has been applied for bad faith, deception, or false assurances, when the petitioner has been diligent. *Id.* at 875. Recently, our Supreme Court has expanded to include assertions of absolute innocence. *In re Pers. Restraint of Carter*, 172 Wn.2d 917, 263 P.3d 1241 (2011).

Carter had initially challenged the comparability of his California assault conviction to a Washington strike offense under the Persistent Offender Accountability Act that was used to sentence him to life without parole in his appeal. *Id.* at 920. After being denied on direct review, Carter filed the PRP, he filed a PRP raising two issues including the comparability issue. *Id.* at 921. He claimed he was entitled to equitable tolling because the actual innocence doctrine warranted review. *Id.* The Court of Appeals “applied the actual innocence doctrine to the comparability issue [and] vacated Carter’s persistent offender sentence. *Id.* (citing *In re Pers. Restraint of Carter*, 154 Wn. App. 907, 916, 920, 924 fn. 5, 925, 230 P.3d 181 (2010)). The Supreme Court accepted review on applying the actual innocence doctrine. *Id.* at 922.

After examination of the doctrine including its inconsistent application to claims of actual innocence at sentencing, the Supreme Court held that the actual innocence doctrine is a form of equitable tolling. The Court acknowledged that “[w]hether justice requires application of the actual innocence doctrine in the context of an untimely challenge to a noncapital persistent offender sentence is a closer question.” *Id.* at 930. After serious consideration, it was extended the doctrine to cover life without sentences.

Unlawfully restraining someone for the remainder of his or her life under a persistent offender sentence would represent a manifest injustice necessitating that we look through procedural screens such as the time bar to prevent a forfeiture of liberty.

Id. The burden placed on a petitioner is

to show, by clear and convincing evidence, that but for a constitutional error, the petitioner would have been found factually innocent of a sufficient number of predicate offenses to render his persistent offender sentence unlawful.

Id.

Stomps was sentenced to 16 years, 15 of which are to be served without good time due to the four enhancements. If one were to be sentenced to a term like Stomps’ later in life, it could very well be a life sentence. Over 15 years without any good time can and must be considered a manifest injustice, necessitating applying equitable tolling to a gateway innocence claim for any Class A felony resulting in incarceration of more than ten years.

Stomps has acted diligently, filing this PRP four months after his federal challenge to the sufficiency of evidence was denied in district court. He is relying not only on expert opinion of Dr. Johnson but testimony his missing co-defendant Smith would have supplied if he had been called as a witness which established their reasonable suspicion that the missing fugitive was in the house.

Stomps also provides two points of evidence supporting his innocence. The first is the statement by David Smith to the police stating that while he performed surveillance on the residence and saw a male suspect that matched the description of the guy they were looking for. Exhibit 3. It was at this point that Smith called Stomps to come to the address for the arrest. Then Stomps and Smith thought they saw the fugitive Barnes.¹³ These two identifications established the reasonable suspicion for them to enter the house to arrest the fugitive. The second piece of new evidence is the statement by the expert witness, Dr. Brian Johnson, identifying how the job of a BRA is similar to that the police and entitles them to the same protections. Exhibit 7.

2. Stomps Meets the Threshold for the Gateway Actual Innocence Claim.

The *Schlup* Court defined the gateway actual innocence claim as

¹³ From his testimony in both the police report and his statement, Smith saw who he thought to be the fugitive twice.

follows:

if a petitioner such as *Schlup* presents evidence of innocence so strong that a court cannot have confidence in the outcome of the trial unless the court is also satisfied that the trial was free of non-harmless constitutional error, the petitioner should be allowed to pass through the gateway and argue the merits of his underlying claims.

Schlup v. Delo, 513 U.S. 298, 316, 115 S.Ct. 851, 130 L.Ed.2d 808 (1995).

The habeas petitioner must show “that it is more likely than not that no reasonable juror would have convicted him in the light of the new evidence.”

Lee, 653 F.3d at 938 (*quoting Schlup*, 513 U.S. at 327; (*citing House v. Bell*, 547 U.S. 518, 538 (2006))). The standard is exacting but not precise and the Supreme Court has held that actual innocence need not be proved. Under the holding of *Schlup*, petitioner must meet several criteria. First, she must present “new reliable evidence . . . not presented at trial.” *House*, 547 U.S. at 518 (*quoting Schlup*, 513 U.S. at 324). *Schlup* requires a petitioner “to support his allegations of constitutional error with new reliable evidence — whether it be exculpatory scientific evidence, trustworthy eyewitness accounts, or critical physical evidence — that was not presented at trial.”

Schlup, 513 U.S. at 324.

Second, rather than requiring absolute certainty about guilt or innocence, a petitioner's burden at the gateway stage is to demonstrate that more likely than not, in light of the new evidence, no reasonable juror would find him guilty beyond a reasonable doubt

House v. Bell, 547 U.S. 518-19. And while new evidence must be presented, this Court must consider all of the evidence that would be presented the reasonable jurors, not just the new evidence. Stomps' new evidence confirms he had the right to make the entry. It also shows his trial counsel was ineffective. See section C.1. *supra*. Stomps is entitled to a new trial.

E. STOMPS IS FACTUALLY INNOCENT OF THE CRIMES FOR WHICH HE WAS CHARGED UNDER THE CONSTITUTION OF THE UNITED STATES.

1. If This court Holds that Stomps Is Not Entitled to a Gateway Actual Innocence Claim He Can Still be Eligible for a Freestanding Actual Innocence Claim Based on the Proper Applicable Constitutional Law.

If this Court finds that ineffective assistance of counsel claim accessed through the *Carter* gateway claim is procedurally time barred or it does not meet the requirements to order a new trial pursuant to *Strickland*, 466 U.S. 668, it must then consider whether or not Stomps is actually innocent of the crimes of conviction. This is required to address those situations where a fair trial was conducted, and yet an innocent man or woman was convicted. While it is hoped that this situation is rare, even in rare situations where this problem exists, the innocent must have an avenue through our court system for that innocence to be considered.

The United States Supreme Court has denied a claim of actual innocence of a state court conviction because of federalism concerns. *Herrera*

v. Collins, 506 U.S. 390, 113 S.Ct. 853, 122 L.Ed.2d 203 (1993). In doing so, it stated that “[f]ederal habeas courts do not sit to correct errors of fact, but to ensure that individuals are not imprisoned in violation of the Constitution. *Id.* (citing *Moore v. Dempsey*, 261 U.S. 86, 87-88, 43 S.Ct. 265, 67 L.Ed. 543 (1923)). But the *Herrera* Court left the path theoretically open to extraordinary cases holding that *Herrera* failed to meet this standard. *Id.* at 392. This language built on what was held in *Murray v. Carrier*:

However, in an extraordinary case, where a constitutional violation has probably resulted in the conviction of one who is actually innocent, a federal habeas court may grant the writ, even in the absence of a showing of cause for the procedural default.

Murray v. Carrier, 477 U.S. 478, 495, 106 S.Ct. 2639, 91 L.Ed.2d 397 (1986). The *Herrera* Court’s rejection was based on federalism concerns and the position that “[f]ederal courts are not forums in which to relitigate state trials.” *Id.* at 401 (quoting *Barefoot v. Estelle*, 463 U.S. 880, 887, 103 S.Ct. 3383, 77 L.Ed.2d 1090 (1983)). This then leaves the state courts to consider the appropriateness of such a claim.

State legislatures have considered and established freestanding claim of actual innocence. *Engessr v. Young*, 856 N.W.2d 471, 482 fn. 3 (S.D. 2014) (citing Ariz. R. Crim. P. 32.1(h); Ark. Code Ann. §§ 16–112–201, –208; Del. Code Ann. tit 11, § 4504; D.C. Code § 22–4135; Me. Rev. Stat. Ann. tit. 15 § 2138(10); Md. Crim. Proc. § 8–301; Minn. Stat. § 590.01

(limited on other grounds, *Reynolds v. State*, 888 NW.2d 125 (2016); Ohio Rev. Code Ann. § 2953.21; Tenn. Code Ann. § 40–30–117; Utah Code Ann. § 78B–9–301; Va. Code Ann. § 19.2–327.10)). Courts in other states have also recognized such claims. *Engesser*, 856 N.W.2d at 482 fn. 3 (citing *In re Bell*, 170 P.3d 153, 157 (Cal. 2007); *Miller v. Comm'r of Corr.*, 700 A.2d 1108, 1130 (Conn. 1997); *People v. Washington*, 665 N.E.2d 1330, 1336–37 (Ill. 1996); *Montoya v. Ulibarri*, 163 P.3d 476, 484 (N.M. 2007); *State ex rel. Amrine v. Roper*, 102 S.W.3d 541, 547 (Mo.2003); *State v. Beach*, 302 P.3d 47, 51–52 (Mt. 2013); *see also Schmidt v. State*, 909 N.W.2d 778 (Iowa 2018)). Of particular interest is the Montana’s Supreme Court differentiation between two classes of innocence claims – procedural (*Schlup*) and substantive (*Herrera*). *Beach*, 302 P.3d at 53. *Beach* makes a clear distinction.

A *Herrera* freestanding petitioner must show by “clear and convincing evidence” that “no reasonable juror ” would find him guilty, whereas a *Schlup* gateway petitioner must merely show that it is “likely” or “probable” that “no reasonable jury ” would find him. A *Herrera* freestanding claim has the higher threshold because, if met, the petitioner is forever exonerated. A *Schlup* gateway claim has a lower threshold because, if met, the petitioner is merely permitted to avoid the application of procedural bars and present his claims of constitutional trial error.

Id.

Beach also points out that it must be supported by new evidence not provided at trial. *Id.* at 52. When asked what the role of the courts are in reviewing a claim of actual innocence, the South Dakota Supreme Court ruled that “[t]he focus is on what a reasonable juror would do in light of the newly discovered evidence and the other evidence.” *Engesser*, 856 N.W.2d at 483–84. This is the appropriate standard because the focus is on the evidence considered by the jury and not judging the evidence itself.

As the United States Supreme Court has stated, “[t]he touchstone of due process is protection of the individual against arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 588, 94 S.Ct. 2963, 41 L.Ed.2d 935 (1974). Substantive due process rights can exist from unconstitutional legislative or executive acts. The United States Supreme Court has ruled that certain governmental actions which “shock the conscience” violate a person’s substantive due process rights. *Rochin v. California*, 342 U.S. 165, 172, 174, 72 S.Ct. 205, 96 L.Ed. 183 (1952) (conviction based on evidence obtained by involuntary stomach pumping overturned). Our courts have agreed with this concept as set forth in *Rochin*, holding that outrageous governmental action can violate an individual’s substantive due process rights. *See State v. Livey*, 130 Wn.2d 1, 921 P.2d 1035 (1996); *State v. Martinez*, 121 Wn. App. 21, 86 P.3d 1210 (2004). The *Livey* court stated that “[f]or the police conduct to violate due process, the

conduct must shock the universal sense of fairness.” *Livey*, 130 Wn.2d at 19 (citing *United States v. Russell*, 411 U.S. 423, 432, 93 S.Ct. 1637, 36 L.Ed.366 (1973)).

The Illinois Supreme Court addressed a substantive due process claim in light of the ruling in *Herrera*. It said that the *Herrera* court ruled against substantive due process because the person is viewed as guilty, he cannot claim “he, an innocent person, was unfairly convicted.” *Washington*, 655 N.E. 2d at 1336. As the *Washington* court pointed out,

truly persuasive demonstration of innocence would, in hindsight, undermine the legal construct precluding a substantive due process analysis. The stronger the claim – the more likely it is that a convicted person is actually innocent – the weaker is the legal construct dictating that the person be viewed as guilty. A truly persuasive demonstration of innocence would effectively reduce the idea to legal fiction. At the point where the construct falls apart, application of substantive due process principles, as Justice Blackmun favored, is invited.

Id. (internal quotations omitted).¹⁴

In *Herrera*, the U.S. Supreme Court refused to consider the freestanding actual innocence claim because of federalism concerns. The New Mexico Supreme Court, in *Montoya*, directly addressed these concerns in context with its own state constitution. *See Montoya*, 163 P.3d at 483 (citing

¹⁴ *Washington* cites to two other states besides Texas and Connecticut for this proposition. *Id.* at 1377 (citing *In re Clark*, 855 P.2d 729 (Cal. 1993); *Jones v. State*, 591 So.2d 911 (Fla.1991)).

Herrera, 506 U.S. at 399, *Summerville*, 641 A.2d at 1378. The *Montoya* Court made it quite clear it has a vested state interest in maintaining the integrity of state courts and that the best place to do this was in state court, not federal court. *Montoya*, 163 P.3d at 483 (citing *Barefoot*, 463 U.S. at 887). Our courts have a similar interest in maintaining the public's confidence in our state justice system. Because this interest is so critical, for this type of claim there is a heightened standard of review in our courts. And while the *Montoya* ruling is first based on due process, it is the combination of constitutional interests, due process and the prohibition against cruel and unusual punishment that requires actual innocence to be considered.¹⁵ As the *Montoya* Court stated:

It cannot be said that the incarceration of an innocent person advances any goal of punishment, and if a prisoner is actually innocent of the crime for which he is incarcerated, the punishment is indeed grossly out of proportion to the severity of the crime.

Montoya, 163 P.3d at 484.

This Court must follow in the footsteps of other states and incorporate the "*Herrera*" substantive claim into our jurisprudence. The Supreme Court has already had the chance to consider a freestanding claim of actual

¹⁵ The article I, section 14 prohibition against cruel and unusual punishment is read similarly to the Eighth Amendment. See *State v. Dodd*, 120 Wn.2d 1, 22, 838 P.2d 86 (1992). However, the same analysis applies and it must also be read more expansively.

innocence. See *In re Pers. Restraint of Weber*, 175 Wn.2d 247, 284 P.3d 734 (2012). In *Weber*, the Court recognized that states have adopted this doctrine notwithstanding the United Supreme Court's reluctance to do so. *Id.* at 262. The freestanding claim was rejected solely because the higher standard required than the *Carter/Schlup* standard which had been factually rejected made it unnecessary to consider. It was not decided because it was unnecessary to the holding in *Weber*.

While the various state courts started out with different standards of proof, the various courts have acknowledged the requirement that any level of proof must be high to assure finality in the legal system. The *Montoya* Court's evaluation of this issue, looking at the courts which have decided this issue before, held that "a petitioner asserting a freestanding claim of innocence must convince the court by clear and convincing evidence that no reasonable juror would have convicted him in light of the new evidence." *Montoya*, 163 P.3d at 486; see also *Engesser*, 856 N.W.2d at 481 (clear and convincing evidence that "no reasonable fact finder would have found petitioner guilty"). This standard was settled upon to strike a reasonable balance between competing standards.

2. There Can Be No Limitations for a Freestanding Actual Innocence Claim.

Stomps has argued that all innocence claims should be treated alike –

limitations based on life sentences is an artificial barrier. This is especially true for the freestanding actual innocence claim which has a constitutional basis. To not provide such an avenue for the truly innocent would go directly against our sense of justice. As the New Mexico Supreme Court stated,

The principles of federalism which informed the majority's decision in *Herrera*, do not constrain this Court in our determination of whether the protections within the New Mexico Constitution allow a habeas corpus petitioner to assert a freestanding claim of actual innocence. Rather than being concerned with principles of federalism, the New Mexico Constitution is obligated to protect our State's sovereignty. Intrinsic within state sovereignty is an interest protecting the credibility of the state judiciary.

Montoya, 163 P.3d at 483 (citing *Herrera*, 506 U.S. at 399, 401, 407-08; *Summerville*, 641 A.2d at 1378).

In support of this proposition, not one of the statutes cited in *Engesser* provided any limitation based on any sentence. *Engessr*, 856 N.W.2d at 482 fn. 3. Of the state cases previously cited, two apparently involved a life sentence but in evaluating the application of the actual innocence doctrine, there was absolutely no discussion of a sentence limitation on its application. This is the appropriate approach based on the substantive due process constitutional basis for this relief. In a practical sense, this means is that no equitable tolling is required. The bottom line here is that not one juror reviewing all facts in this case could find Stomps guilty of any egregious behavior mentioned in *Portnoy*. This is because Stomps had a reasonable

suspicion that Barnes was in the house and that he used the same reasonable force as other BRAs and police when entering a dwelling with the number of residents and whether or not they are armed unknown.

V. CONCLUSION

For the reasons stated above, the evidence supports a finding Stomps is not time barred. It further supports there was insufficient evidence to convict and his trial counsel was ineffective, warranting dismissal. Finally, Stomps is innocent of all charges of his conviction, again warranting dismissal.

VI. REQUEST FOR RELIEF

Jason Stomps is under unlawful restraint. Based upon the foregoing, he asks that he be found innocent of his crimes of conviction due to his actual innocence or in the alternative, insufficient evidence. In the alternative, he asks that the case be remanded back to Clark County Superior Court for a new trial based on ineffective assistance of counsel.

VII. PARTY DECLARATION

MICHAEL C. KAHRs, attorney for Jason Stomps, Petitioner, does hereby declare under penalty of perjury of the laws of the State of Washington that I have read the petition, attached true and correct copies of the exhibits, know its contents, and believe the petition to be true.

Respectfully submitted this 19th day of April, 2019.


MICHAEL KAHRS, WSBA #27085

VIII. EXHIBITS

1	Declaration of Jason Stomps
2	Bail Contract
3	David Smith Statement
4	Police Report
5	Knapstead Motion
6	Judgement and Sentence
7	Declaration of Brian Johnson

EXHIBIT 1

1
2
3
4
5
6
7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 JASON STOMPS,

11 Petitioner,

12 v.

13 MICHAEL OBENLAND,

14 Respondent.

NO. 18-cv-05365-RBL-JRC

DECLARATION OF
JASON STOMPS

15 1. I am over the age of 18, have personal knowledge of the facts set forth herein,
16 and I am competent to testify.

17 2. I am the Petitioner in this case.

18 3. I grew up with one brother with a happy childhood in Corbett, Oregon. I
19 graduated from high school. I lettered in football, wrestling and track. I played bass in the jazz
20 band. I grew up as an avid outdoorsman. I then moved to Phoenix, AZ and attended school as
21 an auto technician. I then moved back to Oregon after graduation.

22 4. I then worked at various jobs until 2002. After 911, I enlisted in the Air National
23 Guard for six years. I started basic training in 2003 in Texas. I attended tech school in security
24 forces. At this school, I was trained to enforce the law, both military and civil. I was also
25 trained in combat including urban combat, anti-terrorism techniques, personal and property

DECLARATION OF JASON STOMPS - 1

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1 protection, and correctional operations. After graduating I went back to Portland, Oregon and I
2 received Title 10 orders making me an active duty guardsman.

3 5. During my active duty service with the Air Guard, I provided security for the F-
4 15s in Portland, law enforcement duties on the base, and generally guarded personnel and
5 property. I even helped provide security by working with the secret service when the President
6 and First Lady came to the Northwest. I had a secret security clearance.

7 6. After my six years was up, I reenlisted in the Air Guard for another six years. I
8 was still on active duty. At ten years, I transferred to the Army National Guard. I left in June,
9 2014. I received an honorable discharge.

10 7. I obtained my Associates Degree in Criminal Justice in March of 2013. I then
11 started taking classes for my bachelors degree.

12 8. I decided to become a bail recovery agent while I continued my guard duties.
13 My training met all the requirements of the Department of Licensing. WAC 308-19-305. I
14 attended a three-day academy to be a Bail Recovery Agent (BRA). There are many topics in
15 the WAC which were covered in my academy training. Having been in the military entitled me
16 to skip field training required by the Department of Licensing. My attorney never let me delve
17 deeply into my military service or academy training.

18 9. At the Academy, I learned the law in Washington, how to skip trace, how to
19 obtain access to the object of my assignment without violence, if possible, and the use of force.
20 I learned the extent of the powers of a BRA which included entry onto property whether it was
21 theirs or a third party's. At the Academy, we studied the difference between planned and
22 unplanned entries. We learned that unplanned entries happen when we either are chasing
23 individuals from one property to another, almost always the property or house of a third party,
24 or conducting surveillance but were unsure whether or not the individual is there. Planned
25

DECLARATION OF JASON STOMPS - 2

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1 entries would occur when there was a long lead time and one knew the individual would most
2 likely be at that location. A good way to explain it is that unplanned entries happened on the
3 spur of the moment with extensive planning.

4 10. I then started working as a BRA in 2013 up until the trial of the incident which
5 is the subject of this case. During my time as a BRA, I arrested over 200 individuals. During
6 that time, these arrests happened in many places, including Indiana, Idaho, California,
7 Washington, Texas, Montana, Oregon, Oklahoma, Arizona, and Florida. The fugitives were
8 mostly found in third people's homes because they were couch surfing when I found them.

9 11. During this time I made approximately 12 forced entries. Each time we verified
10 through surveillance that we thought the individual we sought was present. We usually did
11 unplanned forced entries because based upon our experience we knew there was no guarantee
12 the individual we sought would actually be there. I don't remember ever going to a fugitive's
13 primary residence expecting to locate the individual because only a fool would stay at their
14 residence with an active warrant, especially multiple active warrants like Courtney Barnes.

15 12. As a BRA, I have worked with law enforcement whenever possible. It is my
16 standard operating procedure for everybody's safety. If we were conducting a planned forced
17 entry in Washington, we would obey the requirements of RCW 18.185.300 for planned forced
18 entry. However, we mostly conducted unplanned forced entries because when we started our
19 surveillance, we did not know if the fugitive was present. We always notified local law
20 enforcement if we were doing a planned forced entry as required by law. During any unplanned
21 force entry, we would notify local law enforcement if possible. The notification was for safety
22 reasons because both the police and we have weapons.

23 13. Every time I was assigned a recovery, I would go to the bail office and sign a
24 copy of the contract and obtain a copy of the file. The first thing I attempted was to get ahold of
25

DECLARATION OF JASON STOMPS - 3

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1 the co-signer because it was in their best interest to help me locate the individual so that they
2 did not lose their collateral property.

3 14. I also conducted investigations before looking for fugitives using investigator
4 data bases to locate the missing individual and possibly the co-signer. I reviewed the file to see
5 who the references are in the contract so I may contact them to try to locate the fugitive. I
6 would call the county to verify that the warrant was good. I also would call the Department of
7 Corrections to verify warrants. If I did not have any good information, I would go to my
8 confidential informants.

9 15. Once we had located a possible location, we would stake out the property. When
10 doing a forced entry, either planned or unplanned, I would put all my equipment on which
11 included a tactical vest that had words on it notifying folks I was a bail recover agent. I also
12 would display my badge on my vest and a chain around my neck. I was easily identifiable as a
13 BRA. I don't remember one time when I was entering a house when I did not wear my gear for
14 safety.
15

16 16. The individual I was tasked for finding had a felony warrant from Oregon and a
17 warrant from the Washington Department of Corrections. I was aware that felons under
18 probation with DOC usually are required to have an approved address. Once I found out that
19 Courtney Barnes had a DOC warrant, I had no expectations of finding him at home. I knew
20 from experience that the Department of Corrections would have visited his residence. This is
21 why I looked for him at his girlfriend's listed residence.

22 17. I also knew that Barnes had a felony warrant out of Oregon. Because of the
23 felony status from both his prior and new crimes, I treated this bail recovery as a felony
24 takedown situation and when I entered the house, I used my weapon for protection.
25

1 18. We treated the Barnes situation as an unplanned forced entry. As usual, we
2 called in to inform police that we were present so there would be no incidents or accidental
3 shootings. I was wearing my full gear both be protected and to make sure other people
4 including the police knew who I was and what I was doing.

5 19. After both David Smith and agreed we had a reasonable suspicion that the
6 fugitive Barnes was in the house, I approached the front door, identified myself as a bail
7 enforcement agent, and even identified myself at the end of the conversation as a bounty
8 hunter, because that term was in people's awareness because of the TV show Dog the Bounty
9 Hunter.

10 20. For felonies, I always maintain a firearm awareness and usually keep my
11 weapon "at ready" even if it is not directly pointing at the individuals in the house. The ready
12 position is where the weapon is drawn and is held slightly extended from the body but down at
13 a 45 degree angle.

14 21. If this had been a misdemeanor bail enforcement action, I would not have drawn
15 my gun unless actually necessary for the protection of myself and others. I probably would not
16 have gone into the house on a misdemeanor enforcement action.

17 22. In this case, because of the Department of Corrections and Oregon felony
18 warrants, I treated the search for Barnes as a felony bail enforcement action, no matter how
19 much the bail was. I had no knowledge of who was up the stairs in the upper part of the house
20 and I kept my weapon pointing up with the residents of the house off to my left. I maintain such
21 awareness because felony arrests are almost always more potentially dangerous than
22 misdemeanor arrests.

23 23. My attorney did not bring to the jury attention's the difference between a felony
24 and a misdemeanor bail enforcement action.
25

DECLARATION OF JASON STOMPS - 5

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1 24. I was never asked what my intention was when I went to the front door to talk to
2 the inhabitants of the house. I just wanted to talk to either the girlfriend or Courtney Barnes. I
3 did not go there with the intention of having problems.

4 25. It has been my experience that after a few minutes of conversation, we are
5 permitted entry and then we leave after searching the residence and then provide our business
6 cards.

7 26. In this instance, I knocked normally on the front door like I would do going to a
8 friend's house. I made no loud demands and talked to the girl and explained why we were
9 there. She denied knowing Courtney Barnes, and called down her boyfriend. I had the picture
10 of the fugitive and I was showing it to them through a window next to the door.

11 27. Then a third individual, a guy without a shirt, popped his head out of a second
12 story window and started a conversation with Mr. Smith. After this conversation, they told both
13 Mr. Smith and I they did not know who we were and why we were there.

14 28. As bail recovery agents, we are used to people denying the wanted fugitive is in
15 the residence only to locate them there once we gain access.

16 29. Once they refused us entry, they slammed the door in our faces. At this time, the
17 dogs were barking and we had to talk through a door. We had to raise our voices to be heard.
18 At this time, I start pounding on the door warning them if they did not let us in to search for the
19 fugitive we would be forced to break down the door. I told them we could do it the easy way or
20 the hard way. I always give people the option.

21 30. After the door was closed, I saw who I thought was the fugitive through the
22 window next to the front door. I told Mr. Smith that I too thought I had seen him. I handed
23 Smith a can of pepper spray and asked him to go around back so that the fugitive could not
24 escape.
25

1 31. I can't remember how I contacted Victoria to call the police and bring me my
2 hammer but I think I yelled at her. The amount of time between me thinking I saw the fugitive,
3 asking Mr. Smith to go around back, and having Victoria call the police and bring me my
4 hammer was very short. I was concerned that if we did not move immediately that the fugitive
5 would find a means to escape. We did not know the layout of the house and had no knowledge
6 of where any outside doors were located. It all happened so very fast, in the heat of the
7 moment.

8 32. Since I became a member of Air Force security, I was in the habit of carrying a
9 "go bag" containing my police equipment in my car in case of emergencies. I was subject to a
10 call up for emergencies at any time and I had to be prepared. When in the Guard, I was called
11 out many times on emergencies

12 33. I carried the same habits over to when I became a bail recovery agent. I had a
13 "go bag" of BRA equipment and a separate "go bag" for my Army duties in the truck of my car
14 at all times.

15 34. My trial attorney never asked me about what our knowledge of the house prior
16 to entry, or how long it before I decided to make the unplanned entry.

17 35. I hereby declare under penalty of perjury under the laws of the State of
18 Washington that the forgoing is true and correct to the best of my recollection.
19

20 Signed this 9th day of September, 2018, at Monroe, Washington.
21

22 
23 JASON STOMPS¹
24
25

1 Signature by Michael C. Kahrs per teleconference September 9, 2018 with Mr. Stomps who approved the
wording of the declaration. Mr. Stomps is currently incarcerated. The original signature is to be filed with the
court.

DECLARATION OF JASON STOMPS - 7

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CERTIFICATE OF SERVICE

I hereby certify that on September 10, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: John Samson, Assistant Attorney General, and I hereby certify that I have mailed by United States Postal Service the document to the following non CM/ECF participants: N/A.

/s Michael C. Kahrs

September 10, 2018

DECLARATION OF JASON STOMPS - 8

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EXHIBIT 2

Defendant Courtney Burns
Agent Jan
Date 11-25-13

REGAN BAIL BONDS INC
CO-SIGNER/INDEMNITOR AGREEMENT AND FINANCIAL STATEMENT

FIRST (YOURS) Sinan M. LAST Hang
Residence Address 1200 NE 165th Street APT.
City Vancouver STATE WA ZIP 98065
Home Phone Cell Phone 360 936 7299 Message
Mailing Address Same as above
Date of Birth 05.30.1972 Place of Birth Cambodia Social Security # [REDACTED]
Employer Cascade Callworks Work Phone 360.892.451 EXT.
Work Address 113 7th Street
How long? 2 yrs Department Supervisor Kandi Snyder
Parents Name Saketh Hang Parents Phone 360.694.7805
Parents Address
Significant Other's Name Phone
Significant Other's Address
Significant Other's Employer VNA Work Phone
Significant Other's Parents Name Phone
Significant Other's Parents Address
Relationship to Defendant girlfriend

REFERENCES

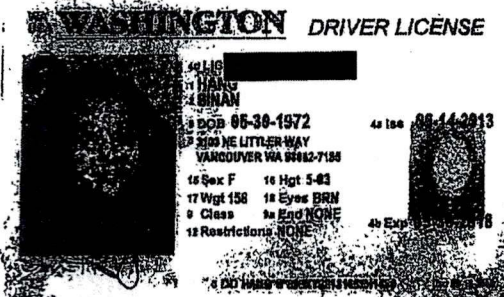
- * Name, Address, Phone and Relationship
1. Annette Walecke friend Vancouver, WA 360.721.2986
2. Vickie Thompson Vancouver, WA 360.945.7705
3. Dan Ruder Vancouver, WA 503.791.8886

FINANCIAL INFORMATION

ASSETS LIABILITIES

Bank \$
Account Number
Stocks/Bonds \$
Real Estate \$
Accounts Receivable \$
Autos \$

The maker of the above statement authorized the Surety to



INDEMNITOR AGREEMENT-1

Indemnitor's Initials [Signature]

INDEMNITY AGREEMENT

THIS AGREEMENT is made by and between the undersigned Defendant, Indemnitor's and Fairmont Insurance Company through its duly authorized agent Regan Bail Bonds.

WHEREAS Fairmont Insurance Company (hereinafter called "Surety"), at the request of the indemnitors has or about to become SURETY on an appearance bond for defendant in the sum of

Five hundred Fifty dollars (\$ 550)

by its certain bond executed on power of attorney number(s) FS3 1237484
NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties jointly and severally agree as follows:

1. That the Indemnitors will have Defendant forthcoming before the Court named on said Bond at the time(s) fixed, and at such other times as may be ordered by the Court.
2. That the Indemnitors will at all times indemnify and save the Surety harmless from and against any and all claims, demands, liabilities, costs, charges, counsel fees, expenses, suits, orders, judgments, or adjudications whatsoever which the Surety shall or may for any cause sustain or incur, by reason of Surety having executed said Bond or undertaking, and will, upon demand, place the Surety in funds to meet all such claims, demands, liabilities, costs, charges, counsel fees, expenses, suits, orders, judgments, or adjudications against it, by reason of its Suretyship, and before the Surety shall be required to pay the same.
3. That the agreement of indemnity contained in paragraph 2 above shall continue as long as the surety has any liability or has sustained any loss, upon the bond referred to herein, and the undersigned further agrees not to make any transfer, or any attempted transfer of any of the property, real or personal, in which the undersigned has an interest or in which the undersigned may subsequently acquire any interest, and it is further agreed that the Surety shall have a lien upon all property of the undersigned for any sums due it or for which it has become, or may become, liable by reason of its having executed the bond referred to herein. It is further agreed that the Indemnity Agreement contained in paragraph 2 above and the provisions of this paragraph shall be binding upon and apply to any subsidiary, affiliate, parent or related enterprises created or acquired by the undersigned.
4. That the voucher, or any other evidence of any payment made by the Surety, by reason of this Suretyship, shall itself, be conclusive evidence of such payments as to the Indemnitors, their estate, and those entitled to share in their estate, and their successors and assigns.
5. That the Surety may withdraw, at any time provided by law, from its Suretyship upon the Bond or undertaking herein, without liability to any party.
6. That Indemnitors' liability to Surety is not limited to the Bond referred to herein, but shall apply to all other bonds or undertakings issued by Surety at the request of the Indemnitors.
7. That Indemnitors obligations and indemnities as contained herein shall not terminate upon exoneration of the bond or undertaking but shall continue until such time that Surety is relieved of all duties, demands, liabilities, obligations, costs or expense in any way related thereto.
8. That the waiver by surety of any breach of any term or condition herein shall not be deemed a waiver of same of any subsequent breach of the same term or condition, and that failure of any Co-Signer/Indemnitor to comply with the terms and conditions herein shall not act as or be construed as a release or waiver as to the remaining Co-Signer/Indemnitor who shall remain liable and bound by all provisions of this agreement.

INDEMNITOR AGREEMENT-2

Indemnitor's Initials [Signature]

9. This Agreement shall be construed and enforced under the laws of the State of Washington. In the any of the provisions of this agreement are inconsistent with the laws of this state, this agreement as to those provisions only, shall be null and void, and the remainder shall be enforced with the same effects as though provisions were omitted.

10. The use of the plural herein shall include the singular. Obligations of the Co-Signer/Indemnitors shall be joint and several and the provisions of this agreement shall be binding upon Co-Signer/Indemnitor heirs, successors, representatives, and assigns.

11. This agreement shall be governed by and construed in accordance with the laws of the State of Washington. The parties to this Contract agree that any action on this Contract shall be brought in a court of competent jurisdiction located, but not limited to, Clark County, Washington.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT THIS

25 DAY OF November, 2013.

X Sinan Hang
Indemnitor Print Name

X _____
Indemnitor Print Name

X [Signature]
Indemnitor Signature

X _____
Indemnitor Signature

STATE OF WA

COUNTY OF Clark

On this 25 day of Nov, 2013, Sinan Hang

Appeared personally before me know to be the person above signed and based upon

_____ who executed the foregoing instrument and who thereupon
acknowledged to me that _____ executed the same.



[Signature]
Notary Public

My commission expires 12-29-16

INDEMNITOR AGREEMENT-3

REGAN BAIL BONDS
VANCOUVER WA

Promissory Note

FOR VALUE RECEIVED, the undersigned, jointly and severally promises to pay to the order of Regan E Bonds, the principal sum of

Five hundred fifty dollars (\$ 550)

Said principal amount is payable in lawful United States currency or its equivalent to Regan Bail Bonds at 612 West Evergreen Blvd., Vancouver, WA 98660 or their designee only and may be required under the terms and conditions of the contracts executed on this date. This note shall be payable upon demand to indemnify Regan Bail Bonds and/or their insurance company or companies from any loss occasioned by the writing of bail and issuance of an appearance bond for:

Cartney Barnes
Defendant

This note shall not bear interest until 30 days after demand is made by Regan Bail Bonds, its agents, or insurance company or companies. Each maker and endorser further agrees jointly and severally to pay this note and all costs of collection including but not limited to reasonable attorney fees in case the principal or any interest thereon is not paid at the respective maturity thereof, or in case it becomes necessary to protect the security hereof whether suit be brought or not. This note and deferred interest payment shall bear interest at the rate of 12% per annual quarter from maturity until paid. This note is secured by the assets of the indemnified parties to this agreement and shall be construed and enforced as such according to the laws of the State of Washington; and therefore upon default in the payment of principal or interest due shall result in the attachment of any such assets.

[Signature]
Indemnitor's Signature

November 25, 2013
Date

Sinan Hang
Name of Indemnitor - printed

[Signature]
Notary / Witness Signature

INDEMNITOR AGREEMENT-4

**REGAN BAIL BONDS
VANCOUVER WA**

Indemnitor Responsibilities

You are signing a legal and binding contract with Regan Bail Bonds. To ensure you fully understand your potential liabilities we've outlined several points below. Make certain that you understand each and every item. If you have any questions, be sure to ask for clarification with the Bail Agent before signing this agreement.

1. Regan Bail Bonds has been contracted by you to put up the full amount of the bail for the defendant. The fee we charge for this service is called the "premium". The premium is fully earned when the defendant's bond has been posted to our agent. ***Premiums are nonrefundable.*** If the defendant is released by the court prior to a scheduled court appearance, at a scheduled court appearance, or the charges are subsequently dropped or dismissed, it does not in any way release the indemnitor from their contractual agreement until all terms agreed upon have been met.

2. You, the indemnitor, have agreed to monitor the defendant for Regan Bail Bonds to ensure their presence in court. You should therefore maintain regular contact with the defendant and Regan Bail Bonds to remain apprised of any scheduled appearances and case status. Your responsibility for the full amount of the bond continues until the court closes the case and the bail bond is released.

If the defendant fails to appear for any scheduled court date the court will issue a warrant for the defendant's arrest. The court will order the bond forfeited and require Regan Bail Bonds to produce the defendant's appearance or pay the full amount of the bond posted. The indemnitor may be required to pay that amount plus expenses to Regan Bail Bonds. Failure to pay in a timely manner may likely result in the forfeiture of any and all collateral posted. Further court action may result from any lack of cooperation on the part of the indemnitor in production of the defendant or payments of costs.

1. If you or the defendant contact our office before the court notifies our office of the defendant's failure to appear, we will assist you and the defendant in scheduling a new court date.

2. If we receive notice of bond forfeiture from the court recovery agents will be assigned to the case. You agree to pay Regan Bail Bonds up to \$100 per hour or another 10% of the bail amount for any services performed by recovery agents on this case, even if they do not physically make the arrest (ie police arrest the defendant before recovery agents)

3. If recovery agents do not perform any services, there shall be a charge of \$50.00 to reinstate the bond after a failure to appear, providing an attorney's presence is not required.

4. If an attorney's services are required to perform any services in relation to this bond the indemnitor shall be required to pay attorney fees of no less than \$100 per bond per court, and/or applicable hourly rates for additional required services.

5. If the defendant's failure to appear results in court costs, warrant fees, etc. being levied against Regan Bail Bonds, the indemnitor agrees to pay any such costs.

6. All money is due and payable upon demand. Any costs for collection of payment for forfeited bonds or any of the other above fees shall be the responsibility of the indemnitor.

Carthay Berns
Name of Defendant

[Signature]
Signature of Indemnitor

November 25, 2013
DATE

[Signature]
NOTARY/ WITNESS Signature

INDEMNITOR AGREEMENT-5

REGAN BAIL BONDS
VANCOUVER WA

Revocation of Bail prior to Release

Courtney Barnes
Defendant

It is agreed that any undertaking of bail which is revoked by the indemnitor, prior to the release of the defendant, will result in a refund of not more than one half of the premium charged. The fee will cover costs of administration charges, bond reporting, surrendering services, and attorney fees. By signing this agreement it is understood that Regan Bail Bonds provides a service. Namely, the release of defendant on bond. This service is provided at a cost, so we ask that you enter into this agreement fully aware of your responsibilities as an indemnitor.

If the person you are contracting a bail bond for fails to appear in court and the bond is ordered forfeited by the court, you as the indemnitor shall be held liable for the full penal sum of the bond and any related costs associated with its forfeiture and collection of monies due and owing. If it is necessary to have the defendant apprehended by a recovery agent or agents then you shall be assuming liability for their hourly fees and related expenses, warrant costs, surrender fees, and attorney fees.

Responsibility to Ensure Defendant Check-In

I am responsible for the defendant to physically report to Regan Bail Bonds within 24 hours of release from custody. I am in full understanding of the fact that I am liable for recovery fees, and attorney fees in the event the defendant fails to check in with Regan Bail Bonds and complete the required paperwork within 24 hours of release from custody. In addition, the Indemnitor is required to guarantee the defendant's fulfillment of any and all additional requirements or responsibilities as outlined in other documents signed by the defendant with Regan Bail Bonds.

[Signature]
Indemnitor's Signature

November 25, 2013
Date

Sinan Hang
Name of Indemnitor-Printed

[Signature]
Witness Signature/Notary

INDEMNITOR AGREEMENT-6

CONFIDENTIAL LOCATION ADDENDUM FOR BAIL BOND

I, the undersigned, do hereby agree that ROBAM bail (Agency), will act as my bail bond and as part of that agreement, they will be able to use location technologies to locate my wireless device at any time during the period of my bail.

The following privacy / terms and conditions are an integral part of this addendum and bond(s) is conditioned upon full compliance by the principal of all said terms and conditions and is a part of said bonds and application therefore:

1. The Agency will use network-based location technologies to find principal solely at their discretion.
2. This addendum will service as the sole notice for the collection of location information for the principal until their bond liability is fully discharged.
3. The Agency will only retain location data while the bail bond is actively in force.
4. The Agency will only disclose location information to the courts as required by court order.
5. The Agency will be the only person with access to location information for a specific principal.
6. The principal WILL NOT have the option to OPT-OUT of location use during the period of bail.
7. All questions relating to location capability should be directed to the Agency.

Name Sinan Hang
Address 1209 NE 65th Street Vancouver WA 98666
Mobile Telephone Number 360.836.7299

1. SURETY to call mobile telephone number when principal application is completed to ensure accuracy of the phone number.
2. If an incorrect phone number is provided by the principle that would constitute a material false statement in the application and result in the SURETY having the right to apprehend arrest and surrender principal.

X Sinan Hang
Signature of Applicant

CONFIDENTIAL LOCATION ADDENDUM FOR BAIL BOND

I, the undersigned, do hereby agree that Regan Bail Bonds (Agency), will act as my bail bond and as part of that agreement, they will be able to use location technologies to locate my wireless device at any time during the period of my bail.

The following privacy / terms and conditions are an integral part of this addendum and bond(s) is conditioned upon full compliance by the principal of all said terms and conditions and is a part of said bonds and application therefore:

1. The Agency will use network-based location technologies to find principal solely at their discretion.
2. This addendum will serve as the sole notice for the collection of location information for the principal until their bond liability is fully discharged.
3. The Agency will only retain location data while the bail bond is actively in force.
4. The Agency will only disclose location information to the courts as required by court order.
5. The Agency will be the only person with access to location information for a specific principal.
6. The principal WILL NOT have the option to OPT-OUT of location use during the period of bail.
7. All questions relating to location capability should be directed to the Agency.

Name Sinan Hang

Address 1209 NE 65th Street Vancouver WA 98666

Mobile Telephone Number 206.936.7299

1. SURETY to call mobile telephone number when principal application is completed to ensure accuracy of the phone number.
2. If an incorrect phone number is provided by the principle that would constitute a material false statement in the application and result in the SURETY having the right to apprehend arrest and surrender principal.

X Sinan Hang
Signature of Applicant

EXHIBIT 3

Interview date: April 16th, 2014
Interview time: 1518 Hours
Interview with: David L. Smith
Case # S14-3130

Clark County Sheriff's Department
Case # S14-3130

Interview of: David L. Smith
Interview by: Detective Richard Torres
Interview date: April 16th, 2014
Interview time: 1518 Hours

CLARK COUNTY
SHERIFF'S DEPARTMENT
2014 APR 24 A 8:08

Legend: RT: Detective Richard Torres, Clark County Sheriff's Office
CL: Detective Chris Luque, Clark County Sheriff's Office
DS: David L. Smith

RT: Today is April 16th, 2014. I'm Detective Torres with The Clark County Sheriff's Office. With me is Detective Chris Luque and David L. Smith. We are at 1-0-5 Florence Street number 9 Kelso Washington at this time we're gonna be speaking with David Smith. David, I'm gonna go ahead and read you your Miranda Warning. You have the right to remain silent. Anything you say can be used against you in a court a law. You have the right at this time to talk to a lawyer and have him present with you while you are being questioned. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning if you wish. You can decide at any time to exercise these rights and not answer any questions or make any statements. You understand the warning that I read to you?

DS: I do.

RT: Okay can you spell your name or the record on the tape please?

DS: D-A-V-I-D S-M-I-T-H.

RT: Okay so David, as I said when, when we got here what we're talking about is the incident that occurred in Vancouver Washington at 1-2-0-8 NE 65th Street on March 20th, 2014. Do you have recollection of that incident?

DS: I do.

RT: Okay. So during that time what was your official title of your occupation that you were working?

DS: I was working as a Bail Enforcement Agent.

RT: Okay. Who were you working for?

DS: Uh, I believe that was bond for Regan's Bail Bonds and I was workin for uh, Jay and Associates.

S 14 3 1 3 0

Interview date: April 16th, 2014
Interview time: 1518 Hours
Interview with: David L. Smith
Case # S14-3130

RT: Okay.

CL: Who's Jay and Associates, your employer? How, how are they?

DS: He's, he's my partner.

CL: Okay.

DS: He draws cases from bail bonds companies and I work with him on em.

CL: Got ya.

DS: I'm on the contract with him.

CL: You're on the contract with him?

DS: Yeah but he...

CL: Okay.

DS: Draws the cases.

RT: Okay how long have you been working as a Bail Agent?

DS: Mm, almost a year.

RT: What did you do before that?

DS: Uh, done construction, I was in the military.

RT: Okay.

DS: Lots of security work.

RT: So you're under contract. So are you under contract with, with a bail bond agency?

DS: Yes.

RT: Is that how it works?

DS: Yes.

RT: Okay. So what's the difference between a Bail Bond Agent and a Bail Bond Recovery Agent?

S 14 3 1 3 0

Time Stamp: 2:10

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DS: A Bail Bond Agent uh, is uh, is the person who sells the bond. They're more like an insurance agent.

RT: Okay.

DS: They, they, they, they sell the bail bonds uh, and uh, Recovery Agent is somebody who is contracted through the bail bonds companies to go out and, and recover an individual who has uh, failed to appear to court on a, on a charge that they're out on bond on.

RT: So is a Bail Enforcement Agent and Bail Bond Recovery Agent the same thing?

DS: No.

RT: They're not?

DS: No its not.

RT: Okay so you're a Bail Enforcement Agent?

DS: I'm a Bail Enforcement Agent ...

RT: Uh-huh.

DS: And I'm a Bail Bonds Agent.

RT: Okay you're, but, and so what would a Bail Bond Recovery Agent do that's different?

DS: We recover and apprehend individuals.

RT: But you're not a re-, Bail Bond Recovery Agent?

DS: I am a Bail Bond Recovery Agent.

RT: Okay.

CL: So do you have two different licenses?

DS: Yes.

RT: Okay.

CL: Okay.

DS: I have two different state licenses.

CL: That makes sense.

S 14 3 1 3 0

Interview date: April 16th, 2014
Interview time: 1518 Hours
Interview with: David L. Smith
Case # S14-3130

RT: Okay cause you said you were a Bail Enforcement Agent, I'm just to clarify, are those the same thing basically?

DS: No they're not.

RT: They're not?

DS: They're completely separate. Uh, uh, like I said, a Bail Bonds Agent is gonna be the person that's gonna be in the office and take the phone call...

RT: Okay.

DS: From either the defendant or what we call the indemnitor, basically the cosigner on the bond.

RT: Okay.

DS: Somebody who's gonna want to bail that individual.

RT: So is a, a Bail Enforcement Agent though, is that the same as a Bail Recovery Agent?

DS: Yes.

RT: Okay, that's what I was getting at. So it's basically the same, two different words for the same thing.

DS: Its same thing, Fugitive Recovery Agent. It, it...

RT: Got ya.

DS: It's all the same thing.

RT: Okay. I, I just was reading the RCW and it had a list of several different things I wasn't sure which one it was.

DS: Okay yeah, yeah those are all the same.

RT: Okay. And you're currently under contract with Regan?

DS: Yes.

RT: Okay.

DS: We were working on that bond for Regan.

S 14 3 1 3 0

Time Stamp: 3:43

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RT: Are, do you?

DS: It's an individual contract for every individual defendant.

RT: Okay so it's not an ongoing contract? Each one is a separate?

DS: Each, each, each, each defendant is a separate contract.

RT: Okay. So who do you report to at Regan?

DS: Mm, my partner does the report to them.

RT: Is that, was that the guy that just left here?

DS: No.

RT: Okay. Who's your partner?

DS: Uh, Jason Stomps, the guy that was with me that night.

RT: Okay. So can you describe your training, what was, what's your training like to, to get into this field of work?

DS: Well I do have prior military police experience so, I mean, I, I.

RT: What, what specifically do you have to get, so you have a, you, I saw you have a badge.

DS: Mm-hmm.

RT: What do you have to do to get that badge?

DS: Well the badge you could just buy offline. Anyways, to get the state license...

RT: Okay.

DS: Uh, you have to do a uh, a course of uh, of a certain amount of hours of training. I believe it was forty-eight, I'm not sure, it was a long weekend I can't really remember.

RT: Okay.

DS: You got, you do the, you do the training uh, I went to the Northwest Bail Academy for that but there's several ones.

RT: Where is that located?

S 14 3 1 3 0

Interview date: April 16th, 2014
Interview time: 1518 Hours
Interview with: David L. Smith
Case #S14-3130

DS: Uh, he does a class where he just comes up to different motels here and there wherever the demand is and runs...

RT: Okay.

DS: Runs his academy there.

RT: When did you take that?

DS: I think April of last year.

RT: Of 2013?

DS: Yep.

RT: Okay. And then you basically take a test and get a certificate and then you can work for any bail...

DS: No.

RT: Agency in the...

DS: No.

RT: State or how's it work?

DS: No, no not at all. You, you, you, you do that training there and then you uh, you have a uh, you have to take the state certified firearms training, same one that you guys do.

RT: Mm-hmm.

DS: Uh, and then uh, once you, once you complete that and have your concealed carry permit then you have to uh, you have to open your own business entity to do this uh, which mine is DL Smith Recovery Services but I was contracting with my uh, partners company. Uh, and then you have to take a Department of Licensing exam through the Department of Licensing.

RT: Okay so you own a company called DL Smith Recovery?

DS: Mm-hmm.

RT: Okay. But you were contracting with Jason, is it Stomps?

DS: Yeah, J and Associates.

Time Stamp: 5:59

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S 14 3 1 3 0

RT: Okay. So that's what you were doing on March 20th, you were contracting with, through his agency?

DS: Yes.

RT: Okay. So basically, so specifically regarding the incident on March 20th, kinda walk me through what took place that day prior to, to you showing up at that house.

DS: Prior to me showing up?

RT: Yeah as far as you being involved with recovering this individual, this fugitive.

DS: Well my partner showed me the file, I reviewed the file.

RT: Where'd you guys do that?

DS: Mm, I'm not sure, we were all over that day. I'm not sure where, it was in transit I'm sure.

RT: Did you guys work on other cases earlier that day?

DS: I'm, yeah, yeah we did.

RT: You did? So when you say reviewed the file what does that entail?

DS: We kinda went through and looked at the information, see what we were gonna be workin on, gettin some ideas of how we're gonna catch the individual.

RT: So when you say file, I mean, is it a file like this...

DS: Mm-hmm.

RT: With information in it basically or is it an electronic file?

DS: Yeah, it's the bail bonds application and all a that.

RT: Okay so you guys looked at it together?

DS: Yeah.

CL: And who is, who gives you that file? The bail bonds company?

DS: Yes.

CL: Okay. So it's all the info that they have basically?

S 14 3 1 3 0

DS: Mm-hmm. Anything that they have that can help us recover that individual.

RT: Okay.

DS: Plus they sign the, the, I mean, there's a lot a stuff that they sign uh, different waivers and, and stuff like that so we can get their information and anybody who has information on em we can get that information to uh, to uh, help us locate that individual.

RT: Okay. So you don't remember where you guys looked at it?

DS: I don't remember.

RT: You know?

DS: I think it was in his car in transit between uh, places that we were going to.

RT: Okay. Did you guys arrest anyone else that day?

DS: I can't recall.

RT: You can't recall, okay. So do you remember the name of the guy you were looking for that day?

DS: I don't recall off the top a my head. Uh, I mean, we work so many cases, you know.

CL: (Inaudible).

DS: Uh, but uh, I don't recall off the top a my head. That was the only day...

RT: Okay.

DS: That I worked that case. That was a fresh case that...

RT: Got ya.

DS: That I had just been (inaudible) so.

RT: Does Courtney Barnes...

DS: Yes.

RT: Ring a bell?

DS: Court-, Courtney Barnes, that's the, that's the...

Time Stamp: 8:18

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RT: Okay.

DS: Guy we were lookin for.

RT: Had you ever had contact with him prior to that day?

DS: I had not.

RT: You had not seen him before?

DS: Nope.

RT: So you guys had, had, had any dealing with him?

DS: Nope, none.

RT: So do you remember when you reviewed the file what was in the file?

DS: Uh.

RT: I mean, what, what, what's in there that you look at? Is there um.

DS: Or, picture of the defendant.

RT: Uh-huh.

DS: Uh, first and foremost.

RT: Uh-huh.

DS: Uh, then uh, there's uh, just the, the standard bail bond applications uh, with their personal references, their address, their....

RT: Got ya.

DS: Vehicle information, stuff like that.

RT: Okay. Was Barnes someone that, that the agency was actively looking for at this time do you know or was it something that that day they said hey we need to go find this guy or had?

DS: I'm not sure.

RT: Had you guys been lookin for him prior to that day?

DS: I hadn't.

S 14 3 1 3 0

RT: You hadn't? Okay. You don't know how much effort had been put into finding him...

DS: I don't.

RT: Prior to that day though?

DS: I don't have any idea. Uh, generally a bail bonds company will uh, make calls and they'll do what they can to, to entice the individual to come in on their own accord and take care of it because...

RT: Okay.

DS: When they have to, when they have to contract through us it costs em extra money so they end up...

RT: Oh got ya.

DS: Losing money when they have to contract through us so.

RT: Okay.

DS: So I'm sure that there was some attempt made to...

RT: By them.

DS: To, to contact that individual.

RT: Okay. Did you know what charges he was facing or the amount of his bond or anything?

DS: Um, I know it was a five hundred dollar bond.

RT: Mm-hmm.

DS: Um, we did pull, there was a criminal history pulled on him. Uh, we (inaudible).

RT: Who did that?

DS: Uh, I'm not sure it was, it was in the file when I received it so I don't know who pulled that. And so I know, I know that he is a uh, is a uh, felon and we did know that uh, Department of Corrections was uh, was actively looking for him at that point too.

RT: Okay. Did you have any information regarding whether or not he would be armed?

DS: Uh, we were thinking that he was, that he was probably going to be armed.

S 14 3 1 3 0

Time Stamp: 10:22

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RT: What, what, what was that based on?

DS: But, but in my line of work, in my line of work...

RT: Mm-hmm.

DS: That I do, we consider everybody armed for our safety until we can prove otherwise.

RT: Okay but you didn't have, I, I guess I'm at, was there anything in the file that said he typically carry's a firearm or any information that you guys had that told you that he might have a firearm?

DS: I don't recall.

RT: Okay.

DS: I don't recall.

RT: So specifically what reasonable cause did you guys have to believe that he was in the house?

DS: Um, well we pulled that, we ran the address for the indemnitor on the bond...

RT: Mm-hmm.

DS: The cosigner, the person who signed him out and was gonna be responsible for the money. Uh, we knew that they were in a romantic relationship together.

RT: Uh-huh.

DS: Um, and we pulled the addresses off of multiple systems. I didn't personally search them, they were searched by my partner and he could tell you which systems they were. I don't know which systems he checked.

RT: What, oh the systems, okay.

DS: Uh, different skip tracing sites and I know he probably used the Washington Court Systems and, and different things like that and uh, and that address checked out for her on multiple systems.

CL: And that's the person who posted the bond?

DS: Yes.

CL: Okay.

S 14 3 1 3 0

RT: Okay. So when you were there what did you see or hear or know that gave you reasonable cause to believe that Mr. Barnes was in the house?

DS: Oh we, we seen somebody in the house, I physically saw somebody in the house who, who to me looked like my defendant.

RT: Mm-hmm.

DS: And they were, they were refusing to come to the door. They uh, we, we were, we plainly identified ourselves uh, uh, who we were and who were were looking for.

RT: Mm-hmm.

DS: And, and that, that, and we requested them to come to the door multiple, multiple times.

RT: Uh-huh.

DS: And, and they were runnin around in the house and they were movin around real quick and, and uh, and they were hidin from us in the house like duckin behind things so.

RT: So when you guys were up at the house did you see a person that matched that description?

DS: I did.

RT: Okay. Who's Victoria Jones, do you know?

DS: Um, I believe she's a bondsman for uh, Regan's Bail Bonds.

RT: Okay. That's what she does, she's a bondsman for them?

DS: Yeah.

RT: So when you go to apprehend these felons or these fug-, you guys refer to em as fugitives?

DS: Fugitives.

RT: Fugitives? Is there typically someone in her role that's with you guys with different agencies that you work with?

DS: I don't know, generally.

RT: Uh-huh.

Time Stamp: 13:14

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DS: Um, I work for multiple companies and different companies have different protocols but not generally.

RT: So what again did you say that her title is or, or what you perceive her to be, is a?

DS: She's a bail bondsman to my under-...

RT: She, so she's, basically she's a bail bonds.

DS: To my understanding she's a, she's a bail bondsman.

RT: Okay. Why was she there, do you know why she would be there? Is it common for bail bondsman's to be on site when fugitives are trying to get recovered or was it odd for her to be there or is that kinda happens fifty percent a the time or?

DS: It, it occasionally happens where there's a bondsman in the area.

RT: Okay. So when they're on site there, I mean, what, what do you perceive their, do they have any job or?

DS: I believe she was there uh, for informational purposes, I believe.

RT: For you guys to get information from?

DS: Yeah for my partner. I had no dealings with her.

RT: You didn't deal with her at all that night?

DS: No.

RT: Okay. So when you guys went there did you?

DS: I was there as an auxiliary agent. I was there to, to cover the back door and, and basically that's it.

RT: Were you...

DS: I was there for my partner's protection as an X-ray agent.

RT: Okay were you anticipating that you guys were gonna be doin a forced entry?

DS: Not at all.

RT: Okay.

S 14 3 130

DS: We, we went to that house with a purpose of, of contacting the indemnitor, which is a common practice. It is something that is, a lot a times that's how we catch the person.

RT: Mm-hmm.

DS: Because that person's responsible for the bond now. They're, they're the one that owes the bail bond company the money.

RT: Okay.

DS: And, and if we can get our fugitive back into custody all they have to pay is the recovery fee so, so its, for us contacting an indemnitor is usually one of the first things that we'll do on a bond because that person is gonna be, ninety percent of the time is gonna be the most likely person to help us located that individual...

RT: So who is...

DS: Because they've got the monetary loss there.

RT: And that's an indemnitor?

DS: Indemnitor, yeah.

RT: So who?

DS: Fancy word for a cosigner.

RT: Okay.

DS: Somebody cosigned on the bond for him to get out.

RT: So is that who you guys were looking to contact is the cosigner on the bond?

DS: Yes we were, yeah we were lookin to contact her at this address.

RT: Okay. So but while you were there you thought you saw the fugitive?

DS: Yes. And we did know that they were romantically involved at the time.

RT: Got ya. So are you aware that there's specific RCW's that are, list protocol whenever you guys do a forced entry?

DS: Yes.

Time Stamp: 15:41

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RT: Who's responsible for ensuring that those protocols are met prior to a forced entry, do you know?

DS: Uh, the lead agent on the case.

RT: The lead agent so that would be?

DS: My partner Jason.

RT: Okay. So, so during this time when you go and you're realizing that now you guys are making a forced entry, did, were you aware that he had taken care of those requirements or?

DS: He said, he said that uh, that it was being called in to, to dispatch.

RT: Okay.

DS: Which generally when we go to an address to contact an indemnitor uh, at the time when we're goin out for informational purposes, I mean, we don't, we generally hadn't been calling dispatch to let em know that we're gonna be, hey, we're gonna be knockin on this door to talk to somebody about somebody we're lookin for, I mean, generally we don't call that into dispatch. We do now.

RT: Mm-hmm.

DS: Because of that situation. Every time, every single time we go to an address we call it in to dispatch. You call em, they're gettin tired of hearin from us I'm sure.

RT: So, so during this time, I mean, is there a time when, in there when they kinda, somethin says okay someone needs to be calling...

DS: Yeah when we....

RT: Dispatch?

DS: When we see somebody that looks like our fugitive in the house and...

RT: Mm-hmm.

DS: And they're, and we know there's people in the house movin around and they're refusing to come to the door, we call dispatch.

RT: So in this situation who called dispatch?

DS: Um, I'm not sure. I was, I was on the uh, rear of the house at this time.

S 14 3 1 3 0

RT: So do you know if anyone called dispatch?

DS: Uh, I was told that dispatch was contacted, yes.

RT: Do you know by you guys or by the people in the house or by who, do you know?

DS: Um, no by us. We called in, he called it in or somebody called it in. Either him or the bondsman called it in and said that we're gonna be doing a forced entry at this address.

RT: And you know that because one of them told you that...

DS: Yeah.

RT: Somebody had called?

DS: Yeah.

RT: Okay, did?

CL: How were you communicatin with them?

DS: Uh, via radio but we were havin radio malfunctions at the time. Our radios weren't workin. All we were hearin was just a beep and I'm, we've, well since we've stopped using that equipment.

CL: So how were you communicating if they weren't working?

DS: Uh, by, kinda by yelling around the corner of the house.

CL: So that's, so you were.

DS: It, I mean, this was moving, this, the situation was progressing very rapidly.

CL: Yeah. So you were on the back?

DS: I was on the back door, yes.

CL: And you said you saw somebody from the back...

DS: Yeah.

CL: That looked like the suspect?

DS: Yeah.

S 14 3 13 0

Time Stamp: 17:55

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CL: Did you see the front a their face, back a their face, back of them?

DS: I saw like a, I saw like a backside profile.

CL: Okay. And then how did you, who did you (inaudible) relay that to to say that I think I see him inside?

DS: To my partner Jason.

CL: And where was he?

DS: He was at the front door.

CL: And you did that not through the radio cause the radio's weren't.

DS: Well I did it via the radio. We didn't know, I didn't know he couldn't hear me on the radio until afterwards but apparently that's what was goin on was our radios were malfunctioning.

CL: So he never heard you.

DS: Cause I wasn't getting a lot a feedback from him either.

CL: Okay.

DS: And I was get, and, and I couldn't hear back on the radio. All I was hearin was beep so I, so I yelled around the, around the side a the house...

CL: So you're saying...

DS: To it.

CL: You found out later he never heard you?

DS: Well he heard me tell him that, that uh, that our guy was in there.

CL: Okay.

DS: So.

CL: And then how did he relay to you that the phone calls had been made?

DS: He told me afterwards that he called into dispatch. He knows...

CL: Oh not during the time though, okay.

S 14 3130

DS: He knows our protocol, he knows, he knows our protocol just as well as I do and he's been doin this longer than I have.

CL: So not during the time of, you didn't realize that it had, he, you didn't hear anything from him during the incident that it'd been called in?

DS: Not. I'm trying to think back here, I mean...

CL: I understand.

DS: Cause, I mean, it, it was, it was all moving so quickly, you know, and then you guys were there and everything was, you know. I can't recall.

CL: Okay.

RT: So you never, so while you were there you never heard him say we need to call in or someone's calling in or anything like that that you?

DS: I heard him, I heard him, I heard him say something about calling dispatch and I heard, I heard that verbally so.

RT: Not over the radio?

DS: Not over the radio.

RT: So you were, you were, when you heard him, when you were in the back a the house you heard him say that?

DS: Yeah.

RT: Okay and he was at the front door?

DS: He was at the front door, yes.

RT: So when you told him that you saw, when you were at the back a the house and you told him that you saw the, the fugitive in the house...

DS: Mm-hmm.

RT: Over the radio...

DS: Mm-hmm.

RT: Had he already been in the, was he already in the house?

Time Stamp: 20:09

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S 14 3 1 3 0

DS: No.

RT: No?

DS: No.

RT: That was before he made entry in the house?

DS: Yes.

RT: Okay. So he never heard you say that?

DS: What?

RT: That you, that you see the fugitive in the house?

DS: He heard me say that, that's why he was calling in the, that's why uh, he was gonna call the dispatch. I, I told him over the radio that I saw him and, and then I yelled around the, to the front of the house from the back corner.

RT: Oh I thought you said that he told you that the radios weren't working.

DS: No, we didn't, we didn't know that our radios were malfunctioning until after the incident uh, when we were talking about it and going over it uh, that he couldn't hear on the radio, that he couldn't hear any of the transmissions.

RT: So he, so he couldn't hear any of the transmission on the radio?

DS: No but we were, we were hollerin back around, around the house cause I wasn't sure if he could hear me on the radio at this time or not so I was hollerin around the side of the house at him.

RT: So do you think he heard you say the fugitive that we're looking for is in the house?

DS: Yes, I know he, that he heard me say that.

RT: He heard you say it over the radio or?

DS: I don't know if he heard, I, he said he didn't hear it over the radio he heard me verbally.

RT: Got ya, okay. So you don't know who made the call to 9-1-1 then, if it was him or the bail lady.

DS: I don't know. What's up? Uh, yeah I'm talkin to him. Uh, I'm working. Okay (inaudible) okay.

S 14 3 1 3 0

CL: Hey David, can we finish real quick so we can?

DS: Hey uh...

CL: Get out a here?

DS: I got to get off the phone real quick. Bye bye.

RT: So when you're on scene there what did you?

CL: Who was that?

DS: Uh, my partner.

RT: What did you do to personally confirm that you had the correct address? Do you, I mean, do you know, do you recall?

DS: We ran it through multiple systems uh, my partner had, had checked out the address and, and uh, the, the indemnitor's name was linked to this address on multiple sites. I mean, we don't just go out willy-nilly, we make sure when we go out to an address that we're going to the right place. We don't, I mean, it, if we just go drivin around to every little address that's listed listed for somebody.

RT: But, so but did you do that or did Jason do that?

DS: Jason did that.

RT: Okay. So I'm gonna show you a series of pictures here. I want you to tell me if you can identify who any a these people are, okay? Do you know who that gentleman is? Have you ever arrested him before?

DS: Uh, I don't believe I have.

RT: Have you ever seen him before?

DS: I don't think so. Doesn't look familiar to me.

RT: Do you know who that woman is, have you ever arrested her?

DS: Uh, she kinda looks familiar but I, I don't know, I don't think I've arrested her.

RT: Okay. She's not a fugitive that you guys have ever looked for?

DS: I couldn't tell ya, I mean, I've made, I've made well over a hundred arrests...

Time Stamp: 23:24

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RT: Okay.

DS: In less than a year so, I mean, they all kinda, you know.

CL: Blend together?

DS: Yeah, I mean, I see people out in town, oh hey, you know, you're the bounty hunter blah, blah, blah and I, you know.

RT: Who's this guy? Is he fugitive you, you've ever arrested before?

DS: I believe that's Courtney Barnes.

RT: That's Courtney Barnes?

DS: I believe so.

RT: Okay.

DS: I'm not a hundred percent but because uh, like I said, that was the first day that I worked on that case but I think, I think that looks like him.

RT: That is Courtney Barnes.

DS: Mm-hmm.

RT: That's a picture of Courtney Barnes.

DS: Okay.

RT: That's a booking photo of Courtney Barnes from February.

DS: I don't, I don't believe that's the photo that we had. I think we, I think we had a...

RT: But that looks pretty close to what Courtney Barnes?

DS: Different, a different photo but.

RT: How old do you think he is?

DS: He had, he had a lot shorter hair. I couldn't tell ya how old he is.

RT: Okay do you remember how old he, the, the man you were supposed to be looking for that night was?

DS: Well he was, I don't know, mid forty's probably.

RT: Okay.

CL: And that's the guy you saw the profile of you're saying in the house?

DS: Yeah.

RT: Okay. What about this guy, have you ever arrested him before? Is that a fugitive you've ever gone after?

DS: Not that I'm aware of.

RT: Have you ever seen him before? You don't recognize him?

DS: Well I'm assuming that these, that these pictures are probably the people that were in the house at that time.

RT: They are.

DS: Okay so then apparently I've seen, I've seen em, you know.

RT: Okay. But you, you, you recognize Courtney Barnes picture?

DS: Yes.

RT: Okay. Okay, I don't have any other question for you Dave. The only (inaudible).

CL: Do you have any questions for us?

DS: Uh, I would...

CL: Or anything that we haven't asked you that you feel we should.

DS: I would like to know when I'm gonna be receiving my equipment back.

CL: Okay.

RT: We can check in, we can check into that for you.

DS: I mean, it's kinda, that's kinda puttin me out, I mean uh, we, we, we purchase our equipment on our own and, and to not have my equipment and, I mean, this, this.

RT: What, what equipment are you missing?

DS: I, I have uh, a taser.

S 14 3 1 3 0

Time Stamp: 25:26

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RT: Okay.

DS: Uh, that you guys have possession of uh, which uh, which that's what, that's the, the, my primary that I usually use. I don't, I don't...

RT: Mm-hmm.

DS: Draw my weapon unless I feel like I need to.

RT: Okay.

DS: And my taser is what I had out and it was on the counter inside the house where, where you guys had me set it down, it was sat down and uh, and you guys picked it up from there and then you took my uh, my Smith and Wesson SD9 off a my side which was holstered.

RT: Okay. Do you, do you have the vest that you were wearing that night? Did, did that get taken or do you have that still?

DS: I have it still.

RT: Do you, is that what you use when you go out to work?

DS: Uh, yeah I always wear my vest.

RT: Okay. Is it here with you now?

DS: Uh, no.

RT: It's not?

DS: No.

RT: Okay. Okay, do you have any other questions for us?

DS: Um, no but if I could get your card so if I do (inaudible)...

RT: Definitely.

DS: A question I could, I, I know who to contact.

RT: Okay.

DS: Um, besides, besides wondering when I'm gonna get my gear back uh.

RT: Okay we can definitely check into that for you.

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DS: I, I mean, am I being, am I being?

CL: We're gonna turn off the tape her real quick here.

DS: Okay (inaudible).

CL: That's why we're trying to finish up with to make sure anything on tape that we have as far as we didn't ask you that you feel we should know.

DS: Am I being charged with anything or, I mean, what's, what goin on?

CL: Well that's, that's what we're trying to figure out right now. We're basically asking the questions and trying to understand what happened that night.

DS: I understand.

CL: So.

DS: I understand.

RT: So do you have any other questions for us?

DS: I don't.

RT: Okay. Detective Torres, Detective Luque and Mr. Dave Smith. It is the 4, the 16th of April at 1545 hours. We're gonna go ahead and conclude this interview. Dave, just so we're clear did I make any promises to you or any guarantees to you regarding this interview, your consent to participate in the interview that you participated in the interview willingly and freely.

DS: Yeah, I participated freely.

RT: Okay.

DS: No promises were made.

RT: Okay we're gonna go ahead and conclude the tape at this point.

Transcribed by Anne Quinonez, Gateway Transcription Services on April 22nd, 2014

EXHIBIT 4

Clark County Sheriffs Office						Case No. 14-3130				
707 W 13TH Street Vancouver, WA 98660			(360) 397-2211 (360) 397-6074 (FAX)			Report ID 03/24/2014 16:07 4663				
Supplemental Incident Report						RCN				
Records Center						DOR 03/24/2014				
707 W 13TH Street Vancouver, WA 98660			(360) 397-2211 (360) 397-6074 (FAX)			Officer Assaulted <input type="checkbox"/>		Non Disclosure <input type="checkbox"/>		
Distribution PA				Distribution Other				Confidential		
init	pDis	sDis	dEnt	M.C.	Concl	Case	F/U	Ret	Lett	
Administrative Information										
Location 1208 NE 65TH ST					City VANCOUVER		State WA	Zip Code 98665		
Local Geo	State Geo	Precinct SO WEST		Geo						
Rep Date 03/20/2014	Rep Time	From Date 03/20/2014	From Time	To Date	To Time	Category	Class	Premise		
Dom Viol	DV Card	Child Abuse <input type="checkbox"/>	Arson <input type="checkbox"/>	Homicide <input type="checkbox"/>	Gang	Weapons <input type="checkbox"/>	Alcohol <input type="checkbox"/>	Drugs <input type="checkbox"/>	Computer <input type="checkbox"/>	
Individual										
Role I	Seq 1	Type I	Last Name SMITH		First Name DAVID		Middle Name LEE		Sex M	Race W
Birth Date 12/14/1983		Ethnicity N		Role Description Involved or Mentioned						
Age Low 30	Age High	Hgt 507	Wgt 160	Hair BRO	Eyes BLU	Residence N	Employment/Occupation REGAN BAIL BONDS			
Driver's License Number		Driver's License Issuer WA		Social Security No.		State ID No.		FBI No.	PCN	
Custody Status	Gang Affiliation		Tribe Affiliation		Identifiers Affiliation					
Comments										
Type H	Location 105 FLORENCE ST #9				City KELSO		State WA	Zip Code 98626		
Type C	Phone No. (360) 703-5220									
Narrative										

SUMMARY

I responded to a reported brandishing that was occurring at 1208 NE 65th ST. Following the scene being secured, I interviewed bail agent David Lee SMITH. David had entered the rear of the listed residence while his partner, Jason R. STOMPS, had forced entry by breaking open the front door. The investigation determined the fugitive they were looking for never resided at the home.

INVOLVED/MENTIONED

Smith, David Lee: Involved or Mentioned

DOCUMENTS

None

Report Written By: Torres, Richard	PSN 4663	Ref Case Number	Report ID 03/24/2014 16:07 4663	Agency/Case No. CCSO 14003130
Approved By: Hoss, Duncan	PSN 3314			
Report Printed By: Girt, Doris on 4/22/2014 12:21:33PM	PSN 0551			

Clark County Sheriffs OfficeCase No.
14-3130**Narrative****DETAILS**

On the listed date and time I responded to a reported brandishing in progress at 1208 NE 65th ST. The caller reported that a man was on her front door, armed with a handgun, and demanding entry. Whirl enroute I heard dispatch advised that the subject had made entry into the house and there was an active disturbance inside the residence.

Upon my arrival I found that other deputies had detained two men who were identified as bail agents, being Jason R. STOMPS and David L. SMITH. Both subjects were detained in the rear of separate patrol vehicles. At 2106 hours I read each their Constitutional Rights verbatim from my department issued card. Each stated they understood their rights and stated no confusion. I asked David L. SMITH if he would talk with me regarding what took place; he agreed.

Statement of David L. SMITH

David told me that he had just begun working with a new partner who he identified as Jason STOMPS. David said he has previous experience as a bail agent working in Kelso, WA, but he has just started working with Jason in Vancouver.

David stated that he received a call from Jason earlier in the evening and was told that they had a subject who they needed to pick up. Jason provided David with a possible address of 1208 NE 65th Street as where the subject might be staying. David stated that he also had a picture of the subject with him in his pocket. David told me this address is supposed to be the home of the subject's girlfriend.

I asked David to describe the subject he was looking for. He replied, "White guy, taller, about 40." I asked if he could describe him further, he said no.

David then told me that he parked near the listed residence so he could perform surveillance on the house and see if he could locate the subject. David said he was parked outside for almost an hour and saw several people inside the house. David said he saw a male subject that matched the description of the guy they were looking for, so he called Jason and told him. Jason then arrived a short time later.

David said that when Jason arrived, the two of them walked up to the front door and Jason started to knock on the door. David stated he saw three people running around inside the house, but they would not answer the door. He said they kept running up and down the stairs as Jason knocked. I asked him what Jason was saying as he knocked; David could not remember what Jason was saying.

David said he thought people would run out the back door, so he went to the rear of the house and found the slider unlocked. He said he opened the slider and yelled, "Bail Enforcement Officer", but the people kept running around the house. I asked him if the people inside the house said anything. David replied, "They kept yelling 'Who are you'."

I asked David to describe the three people who were in the house; he stated he saw three people - two males and a female. I asked him their ages, he said he had no idea. I asked him to describe them further, he was not able to provide any further description regarding clothing, hair color, height/weight, etc.

David said he entered through the rear slider and saw his partner Jason was already inside the house and he was pointing his gun at everyone yelling, "Get on the ground". David said he saw Jason waving his gun around at three people, so he ran through the lower level to check for other people. I asked him what the people were saying as Jason was pointing his gun at them. Again, David stated the three people were asking, "Who are you?"

David stated he then saw police arrive and he was put in handcuffs.

Report Written By: Torres, Richard	PSN 4663	Ref Case Number	Report ID 03/24/2014 16:07 4663	14003130	CCSO Agency/Case No.
Approved By: Hoss, Duncan	PSN 3314				
Report Printed By: Girt, Doris on 4/22/2014 12:21:33PM	PSN 0551				

Page 2 of 3

JONES, VICTORIA ELAINE MARIE 2014-1-00774-4
STOMPS, JASON ROBERT 2014-1-00772-8
SMITH, DAVID LEE 2014-1-00773-6

4/22/14

000032

Clark County Sheriffs Office

Case No.
14-3130

Narrative

I asked David how many times he's been involved with a situation where he forced entry into a house looking for someone, he stated "about ten times before."

I asked David if at any time tonight he saw the person they were looking for at this residence, he replied no.

I asked David if he has ever seen the subject they were looking for live; he said "No, I just saw a picture of him one hour before getting to the house.

I asked David is he thought the subjects inside the house were of similar age to the subject they were looking for; he said he did not know.

I concluded my interview with David and advised him that reports would be forwarded to the PA for review .

CONCLUSION

Forward to PA for review.

I certify (or declare) under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct. I intend my printed name and PSN on this document to be my signature.
This document was signed in Clark County, Washington on 03/24/2014.

Report Written By: Torres, Richard	PSN 4663	Ref Case Number	Report ID 03/24/2014 16:07 4663	Agency/Case No. CCSO 14003130
Approved By: Hoss, Duncan	PSN 3314			
Report Printed By: Girt, Doris on 4/22/2014 12:21:33PM	PSN 0551			

EXHIBIT 5

COPY
Original Filed

SEP 18 2014

Scott G. Weber, Clerk, Clark Co.

THE SUPERIOR COURT OF WASHINGTON COUNTY OF CLARK

STATE OF WASHINGTON,

Plaintiff,

v.

JASON R. STOMPS,

Defendant.

No. 14-1-00772-8

MOTION FOR DISMISSAL

PURSUANT TO STATE V.

KNAPSTAD

MOTION

The Defendant, JASON R. STOMPS, by and through his attorney of record, MICHAEL GREEN, moves this Court to DISMISS the charges against the Defendant in the above-entitled matter. This Motion is based on the records and files herein, the attached Declaration of Probable Cause, and upon the Washington State Supreme Court's decision in *State of Washington v. Knapstad*, 107 Wn.2d 346, 729 P.2d 48 (1986).

FACTS OF THE CASE

On November 25th, 2013, Sinan Hang entered into a Bail Bond Agreement with Regan Bail Bonds, listing her as the co-signer/indemnitor in a \$550 bond for Courtney Barnes. Ms. Hang listed her home address on the Agreement form as 1208 NE 65th Street, Vancouver, Washington. Subsequently, Courtney Barnes failed to appear for his

MOTION FOR DISMISSAL PURSUANT TO KNAPSTAD- Page 1 of 7

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1 December 17th, 2013 court appearance in Clark County District Court, and a warrant for
2 Mr. Barnes was authorized and issued. On March 20th, 2014, Regan Bail Bonds executed
3 a Bail Bond Recovery Contract with the Defendant, Mr. Jason Stomps, to recover Mr.
4 Barnes and return him to custody. When the Defendant received the Bail Bond contract
5 from Regan Bail Bonds, he was told that Mr. Barnes was most likely at Ms. Hang's
6 residence.

7 Co- Defendant David Smith (another licensed Bail Bond Recovery Agent and Mr.
8 Stomps' partner at that time) went to the home address listed on the Bail Bond contract
9 for Ms. Sinan Hang, 1208 NE 65th Street in Vancouver, Washington, to conduct
10 surveillance. Mr. Smith contacted Mr. Stomps and relayed that he had seen someone
11 matching the description of Mr. Barnes at that address. Mr. Stomps then proceeded to
12 that address with co-defendant Victoria Jones.

13 After arriving at the listed address, the Defendant (Mr. Stomps) positioned
14 himself outside the front door, while Mr. Smith positioned himself by the back door. Mr.
15 Smith relayed by radio that he had spotted someone inside the listed address who
16 matched the description of Courtney Barnes. Mr. Stomps then knocked on the front door.
17 The three known occupants of the house at that moment were Taylor Waleske, Quincy
18 Waleske, and Nathan Panosh. These three individuals have stated that they heard
19 someone knocking at the door, demanding that the door be opened because the person at
20 the door was looking for someone named "Courtney Barnes." The occupants stated they
21 told Mr. Stomps that they did not know anyone by that name and asked Mr. Stomps to go
22 away. Mr. Stomps continued to demand entry, and told the occupants that if they did not
23 open the door he would force the door open. The occupants did not open the door, and
24 instead called 911. Seeing that the occupants were not going to open the door, Mr.
25 Stomps returned to his vehicle, where Ms. Jones was waiting. Mr. Stomps asked Ms.
26 Jones to hand him his pick ax from the trunk of the vehicle, which Ms. Jones did. Mr.
27 Stomps requested that Ms. Jones call 911 and tell them they were about to force entry
28 into the listed residence. Ms. Jones called 911, which was answered after 5 rings,

1 informed them that Bail Recovery Agents were forcing entry into the listed residence.
2 Mr. Stomps, meanwhile, had used his tool to remove the front door of the listed residence
3 from its hinges, and had gained entry to the listed residence. Once inside, Mr. Stomps
4 encountered the three occupants of the listed residence. Mr. Stomps ordered the three
5 occupants at gunpoint to get on the floor, and had the two males handcuff themselves
6 together.

7 Very shortly thereafter, law enforcement arrived and took Mr. Stomps, Mr. Smith,
8 and Ms. Jones into custody.

9
10 ARGUMENT
11

12 RCW 18.185 is the chapter of Washington statutes that governs the licensing
13 requirements and conduct of Bail Bond Agents. RCW 18.185.300 states in full:
14

15 "Bail bond recovery agent — Planned forced entry — Requirements.

16 (1) Before a bail bond recovery agent may apprehend a person subject to a bail bond in a
17 planned forced entry, the bail bond recovery agent must:

18
19 (a) Have reasonable cause to believe that the defendant is inside the dwelling,
20 building, or other structure where the planned forced entry is expected to occur; and
21

22 (b) Notify an appropriate law enforcement agency in the local jurisdiction in which the
23 apprehension is expected to occur. Notification must include, at a minimum: The name of
24 the defendant; the address, or the approximate location if the address is undeterminable,
25 of the dwelling, building, or other structure where the planned forced entry is expected to
26 occur; the name of the bail bond recovery agent; the name of the contracting bail bond
27 agent; and the alleged offense or conduct the defendant committed that resulted in the

1 issuance of a bail bond.

2
3 (2) During the actual planned forced entry, a bail bond recovery agent:

4
5 (a) Shall wear a shirt, vest, or other garment with the words "BAIL BOND
6 RECOVERY AGENT," "BAIL ENFORCEMENT," or "BAIL ENFORCEMENT
7 AGENT" displayed in at least two-inch-high reflective print letters across the front and
8 back of the garment and in a contrasting color to that of the garment; and

9
10 (b) May display a badge approved by the department with the words "BAIL BOND
11 RECOVERY AGENT," "BAIL ENFORCEMENT," or "BAIL ENFORCEMENT
12 AGENT" prominently displayed.

13
14 (3) Any law enforcement officer who assists in or is in attendance during a planned
15 forced entry is immune from civil action for damages arising out of actions taken by the
16 bail bond recovery agent or agents conducting the forced entry."

17
18 The term "planned forced entry" referred to in the first sentence is defined by
19 RCW 18.185.010 (12), which states in full:

20
21 "'Planned forced entry' means a premeditated forcible entry into a dwelling, building, or
22 other structure without the occupant's knowledge or consent for the purpose of
23 apprehending a fugitive criminal defendant subject to a bail bond. 'Planned forced entry'
24 does not include situations where, during an imminent or actual chase or pursuit of a
25 fleeing fugitive criminal defendant, or during a casual or unintended encounter with the
26 fugitive, the bail bond recovery agent forcibly enters into a dwelling, building, or other
27 structure without advanced planning."

MOTION FOR DISMISSAL PURSUANT TO KNAPSTAD- Page 4 of 7

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1 In the present case, then, the primary questions are did the defendants execute a
2 planned forced entry, and if so, did they comply with the requirements of the statute? The
3 definition of "planned forced entry" requires premeditation, which is not defined by this
4 chapter. However, the term "premeditation" is referred to in RCW 9A.32.020 (1), which
5 states in full:

6
7 "As used in this chapter, the premeditation required in order to support a conviction of
8 the crime of murder in the first degree must involve more than a moment in point of
9 time."

10
11 While that definition is not controlling in RCW 18.185, it is highly instructive.
12 Essentially, in order to convict someone of murder in the first degree in the State of
13 Washington, the prosecution must prove premeditation, which necessarily means
14 planning to a degree that is "more than a moment in point of time." *RCW 9A.32.030*
15 *(1)(a)*. Simply proving intent to kill is not enough; that comprises the crime of murder in
16 the second degree. *RCW 9A.32.040 (1)(a)*.

17 While the prosecution may argue that in the present case Mr. Stomps engaged in
18 premeditation when he decided to force entry, that simply strains the bounds of an
19 ordinary understanding of the terms "planned" and "premeditated," and goes against the
20 Washington State Legislature's limitation of "premeditation" in RCW 9A.32.020 (1).
21 Furthermore, when a term is not defined by a statute, "words of a statute must be accorded
22 their ordinary meaning." *State v. Halsen*, 111 Wn.2d 121, at 123, 757 P.2d 531 (1988)
23 (quoting from *Davis v. Department of Employment Security*, 108 Wn.2d 272, at 277, 737
24 P.2d 1262 (1987)). The online version of the *Oxford English Dictionary* defines
25 "premeditation" as "the act of thinking about or contemplating something **beforehand or**
26 **previously**" (emphasis added). *Oxford English Dictionary*, www.oed.com (2014). To
27 assume that "beforehand or previously" can easily encompass the few seconds between
28 being faced with a situation and deciding how to respond, is to ignore the ordinary

1 meaning of the words. Otherwise, the definition of "premeditation" would be just as
2 readily stated as being "the act of thinking about or contemplating something
3 **contemporaneously or at the same time.**" Obviously, these two definitions are
4 disparate from one another, and thus the ordinary meaning of the language of the statute
5 is that a "planned forced entry" must be just that: one that has been planned in advance,
6 not a forced entry that is in response to exigent circumstances.

7 If the meaning of a statute is clear on its face, the Court must give the language
8 of the statute its plain meaning without resorting to rules of statutory interpretation.
9 *State v. Thielken*, 102 Wn.2d 272, at 275, 684 P.2d 709 (1984). Even if the State argues
10 that use of the term "premeditated" creates a possibly ambiguous statute, the rules of
11 lenity and strict statutory construction come into play. According to the rule of lenity,
12 "[w]here two possible constructions are permissible, the rule of lenity requires us to
13 construe the statute strictly against the State in favor of the accused." *State v. Gore*, 101
14 Wn.2d 481, 681 P.2d 227 (1984), *State v. Workman*, 90 Wn.2d 443, 584 P.2d 382 (1978).
15 Also, the rule of strict statutory construction is such that if "the statutory language is plain
16 and unambiguous, the court's inquiry must end, for the statute's meaning must be derived
17 from the wording of the statute itself. *State v. Wilbur*, 110 Wn.2d 16, 749 P.2d 1295
18 (1988). Accordingly, the Court must construe the statute in favor of Mr. Stomps, and to
19 say that Mr. Stomps' actions in the face of exigent circumstances amounts to
20 "premeditation" or "planning" is simply to ignore the ordinary meaning of those words.

21 Accordingly, since Mr. Stomps was not engaged in a planned forcible entry, the
22 requirements of the statute are not applicable in the present case, and Mr. Stomps was
23 therefore engaged in the completely lawful attempt to detain and arrest a fugitive criminal
24 defendant who was subject to a bail bond. Thus, the charges against Mr. Stomps cannot
25 be sustained as a matter of law, and this Court should DISMISS the charges against him.

26 ///


27 ///

28 ///

MOTION FOR DISMISSAL PURSUANT TO KNAPSTAD- Page 6 of 7

MICHAEL GREEN LAW OFFICE, PC
712 W. Evergreen Blvd. / Vancouver, WA 98660
(360) 694-9204 / Fax: (360) 735-7938
michaelgreen21@gmail.com

1 Respectfully submitted this 17th day of September, 2014.

2 
3 _____
4 Michael Green, WSBA #35425
5 Attorney for the Defendant
6

7
8 DECLARATION OF DEFENDANT
9

- 10 1. I am the Defendant in the above-entitled case.
11 2. I am making this declaration based on personal knowledge.
12 3. Attached hereto is the probable cause declaration received by the defense that
13 is relevant to this motion. For the purposes of this motion, and for this motion
14 only, none of the facts contained in the attached declaration are disputed.
15

16 I declare under penalty of perjury under the laws of the State of Washington that
17 the foregoing is true and correct.
18

19 Dated this 17th day of September, 2014.
20


21 
22 _____
23 Jason R. Stomps
24 Defendant
25
26
27
28

EXHIBIT 6

Michael Green
Case 12

S10

FILED
APR 29 2015
4:42
Scott G. Weber, Clerk, Clark Co

Superior Court of Washington
County of Clark

State of Washington, Plaintiff,

No. 14-1-00772-8

vs.

Felony Judgment and Sentence --

JASON ROBERT STOMPS,
Defendant.

Prison
(FJS)

SID: WA25111109
If no SID, use DOB: 11/18/1973

15-9-01566-3
☒ Clerk's Action Required, para 2.1, 4.1, 4.3, 5.2,
5.3, 5.5 and 5.7
☐ Defendant Used Motor Vehicle
☐ Juvenile Decline ☐ Mandatory ☐ Discretionary

I. Hearing

1.1 The court conducted a sentencing hearing this date; the defendant, the defendant's lawyer, and the deputy prosecuting attorney were present.

II. Findings

There being no reason why judgment should not be pronounced, in accordance with the proceedings in this case, the court **Finds:**

2.1 **Current Offenses:** The defendant is guilty of the following offenses, based upon

☐ guilty plea ☒ jury-verdict 4/14/2015 ☐ bench trial :

Count	Crime	RCW (w/subsection)	Class	Date of Crime
01	BURGLARY IN THE FIRST DEGREE	9A.08.020(3)/9A.52.020 /9A.52.020(1)(a)	FA	3/20/2014
02	KIDNAPPING IN THE SECOND DEGREE	9A.08.020(3)/9A.40.030	FB	3/20/2014
03	KIDNAPPING IN THE SECOND DEGREE	9A.08.020(3)/9A.40.030	FB	3/20/2014
04	KIDNAPPING IN THE SECOND DEGREE	9A.08.020(3)/9A.40.030	FB	3/20/2014

Class: FA (Felony-A), FB (Felony-B), FC (Felony-C)

(If the crime is a drug offense, include the type of drug in the second column.)

☐ Additional current offenses are attached in Appendix 2.1a.

The jury returned a special verdict or the court made a special finding with regard to the following:

☒ The defendant used a **firearm** in the commission of the offense in Count 01, 02, 03, 04. RCW 9.94A.825, 9.94A.533.

☒ **COUNTS 5, 6, 7 SHALL BE MERGED WITH COUNTS 2, 3, 4 AND ARE VACATED FOR ALL PURPOSES OF SENTENCING, BUT ARE SUBJECT TO REVIVAL AFTER APPEAL.**

Felony Judgment and Sentence (FJS) (Prison)(Nonsex Offender)
(RCW 9.94A.500, .505)(WPF CR 84.0400 (7/2009))

Page 1 of 10

139
EB

- ☐ The defendant used a **deadly weapon other than a firearm** in committing the offense in Count _____. RCW 9.94A.825, 9.94A.533.
- ☐ Count _____, **Violation of the Uniform Controlled Substances Act (VUCSA)**, RCW 69.50.401 and RCW 69.50.435, took place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.
- ☐ The defendant committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, when a juvenile was present in or upon the premises of manufacture in Count _____. RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.
- ☐ Count _____ is a criminal street gang-related felony offense in which the defendant compensated, threatened, or solicited a minor in order to involve that minor in the commission of the offense. RCW 9.94A.833.
- ☐ Count _____ is the crime of **unlawful possession of a firearm** and the defendant was a **criminal street gang member or associate** when the defendant committed the crime. RCW 9.94A.702, 9.94A. ____.
- ☐ The defendant committed ☐ **vehicular homicide** ☐ **vehicular assault** proximately caused by driving a vehicle while under the influence of intoxicating liquor or drug or by operating a vehicle in a reckless manner. The offense is, therefore, deemed a violent offense. RCW 9.94A.030.
- ☐ Count _____ involves **attempting to elude** a police vehicle and during the commission of the crime the defendant endangered one or more persons other than the defendant or the pursuing law enforcement officer. RCW 9.94A.834.
- ☐ Count _____ is a felony in the commission of which the defendant used a **motor vehicle**. RCW 46.20.285.
- ☐ The defendant has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.
- ☐ For the crime(s) charged in Count _____ **domestic violence** was pled and proved. RCW 10.99.020.
- ~~_____~~ encompass the same criminal conduct and count as one crime in determining the offender score. RCW 9.94A.589.
- ☐ **Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):**

	Crime	Cause Number	Court (county & state)
1.			

- ☐ Additional current convictions listed under different cause numbers used in calculating the offender score are attached in Appendix 2.1b.

2.2 Criminal History (RCW 9.94A.525):

	Crime	Date of Crime	Date of Sentence	Sentencing Court (County & State)	A or J Adult, Juv.	DV?*	Type
1	See attached criminal history						

*DV: Domestic Violence was pled and proved

- ☒ Additional criminal history is attached in Appendix 2.2.
- ☐ The defendant committed a current offense while on community placement/community custody (adds one point to score). RCW 9.94A.525.
- ☐ The prior convictions for _____ are one offense for purposes of determining the offender score (RCW 9.94A.525).
- ☐ The prior convictions for _____ are not counted as points but as enhancements pursuant to RCW 46.61.520.

2.3 Sentencing Data:

Count No.	Offender Score	Seriousness Level	Standard Range (not including enhancements)	Plus Enhancements*	Total Standard Range (including enhancements)	Maximum Term	Maximum Fine
01	6	VII	57-75 MONTHS	(F)	225-243 MONTHS	LIFE	\$50,000.00
02	6	V	41-54 MONTHS	(F)	209-222 MONTHS	10 YEARS	\$20,000.00
03	6	V	41-54 MONTHS	(F)	209-222 MONTHS	10 YEARS	\$20,000.00
04	6	V	41-54 MONTHS	(F)	209-222 MONTHS	10 YEARS	\$20,000.00

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (CSG) criminal street gang involving minor, (AE) endangerment while attempting to elude.

☐ Additional current offense sentencing data is attached in Appendix 2.3.

For violent offenses, most serious offenses, or armed offenders, recommended sentencing agreements or plea agreements are ☐ attached ☐ as follows: _____.

2.4 ☒ Exceptional Sentence. The court finds substantial and compelling reasons that justify an exceptional sentence:

- ☒ below the standard range for Count(s) 1, 2, 3, 4.
- ☐ above the standard range for Count(s) _____.
- ☐ The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.
- ☐ Aggravating factors were ☐ stipulated by the defendant, ☐ found by the court after the defendant waived jury trial, ☐ found by jury, by special interrogatory.
- ☐ within the standard range for Count(s) _____, but served consecutively to Count(s) _____.
- ☒ Findings of fact and conclusions of law are attached in Appendix 2.4. ☐ Jury's special interrogatory is attached. The Prosecuting Attorney ☒ did ☐ did not recommend a similar sentence.

2.5 Ability to Pay Legal Financial Obligations. The court has considered the total amount owing, the defendant's past, present, and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds:

- ☐ That the defendant has the ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.
- ☐ That the defendant is presently indigent but is anticipated to be able to pay financial obligations in the future. RCW 9.94A.753.
- ☒ That the defendant is indigent ~~and disabled~~ and is not anticipated to be able to pay financial obligations in the future. RCW 9.94A.753.
- ☐ Other: _____ . RCW 9.94A.753.
- ☐ The following extraordinary circumstances exist that make restitution inappropriate. (RCW 9.94A.753): _____

☐ The defendant has the present means to pay costs of incarceration. RCW 9.94A.760.

III. Judgment

3.1 The defendant is **guilty** of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.

3.2 ☒ Counts 5, 6, and 7 shall be merged with counts 2, 3, and 4 are vacated for purposes of sentencing, and are subject to revival after appeal.

IV. Sentence and Order

It is ordered:

4.1 Confinement. The court sentences the defendant to total confinement as follows:

- (a) **Confinement.** RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

12 months on Count 01

12 months on Count 02

12 months on Count 03

12 months on Count 04

- ☐ The confinement time on Count(s) _____ contain(s) a mandatory minimum term of _____.
- ☒ The confinement time on Count 01, 02, 03, 04 includes 168 months as enhancement for ☒ firearm
- ☐ deadly weapon ☐ VUCSA in a protected zone
- ☐ manufacture of methamphetamine with juvenile present.

Actual number of months of total confinement ordered is: 180 MONTHS

All counts shall be served concurrently, except for the portion of those counts for which there is an enhancement as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: _____

The sentence herein shall run consecutively with any other sentence previously imposed in any other case, including other cases in District Court or Superior Court, unless otherwise specified herein: _____

Confinement shall commence immediately unless otherwise set forth here: _____

- (b) **Credit for Time Served:** The defendant shall receive 16 days credit for time served prior to sentencing for confinement that was solely under this cause number. RCW 9.94A.505. The jail shall compute earned early release credits (good time) pursuant to its policies and procedures

- (c) ☐ **Work Ethic Program.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic program. The court recommends that the defendant serve the sentence at a work ethic program. Upon completion of work ethic program, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions in Section 4.2. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of confinement.

4.2 Community Custody. (To determine which offenses are eligible for or required for community custody see RCW 9.94A.701)

- (A) The defendant shall be on community custody for the longer of:

- (1) the period of early release. RCW 9.94A.728(1)(2); or
- (2) the period imposed by the court, as follows:

Count(s) _____, 36 months for Serious Violent Offenses

Count(s) 1, 2, 3, 4, 18 months for Violent Offenses

Count(s) _____, 12 months (for crimes against a person, drug offenses, or offenses involving the unlawful possession of a firearm by a street gang member or associate)

Count(s) _____, _____ months. RCW 9.94A.701(9)

- (B) While on community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or _____

community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while on community custody; (6) not own, use, or possess firearms or ammunition; (7) pay supervision fees as determined by DOC; (8) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; and (9) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706. The defendant's residence location and living arrangements are subject to the prior approval of DOC while on community custody.

The court orders that during the period of supervision the defendant shall:

- ☐ consume no alcohol.
☒ have no contact with: ANNETTE, QUINCEY, TAYLOR WALESKE, AND NATHAN PANOSH.
☐ remain ☐ within ☐ outside of a specified geographical boundary, to wit:

- ☐ not serve in any paid or volunteer capacity where he or she has control or supervision of minors under 13 years of age.

- ☒ participate in the following crime-related treatment or counseling services:

AS DIRECTED BY D.O.C.

- ☐ undergo an evaluation for treatment for ☐ domestic violence ☐ substance abuse

☐ mental health ☐ anger management, and fully comply with all recommended treatment.

- ☒ comply with the following crime-related prohibitions:

AS DIRECTED BY D.O.C.

- ☐ Additional conditions are imposed in Appendix 4.2, if attached or are as follows:

Court Ordered Treatment: If any court orders mental health or chemical dependency treatment, the defendant must notify DOC and the defendant must release treatment information to DOC for the duration of incarceration and supervision. RCW 9.94A.562.

4.3 Legal Financial Obligations: The defendant shall pay to the clerk of this court:

JASS CODE

RTN/RJN	<u>\$727.52</u>	Restitution to: <u>ANNETTE T WALESKE (\$727.52)</u> (Name and Address--address may be withheld and provided confidentially to Clerk of the Court's office.)	
PCV	<u>\$ 500.00</u>	Victim assessment	RCW 7.68.035
PDV		Domestic Violence assessment	RCW 10.99.080
CRC	<u>\$</u>	Court costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190	
		Criminal filing fee <u>\$ 200.00</u>	FRC <u>IV</u>
		Witness costs <u>\$</u>	WFR
		Sheriff service fees <u>\$</u>	SFR/SFS/SFW/WRF
		Jury demand fee <u>\$ 250.00</u>	JFR
		Extradition costs <u>\$</u>	EXT
		Other <u>\$</u>	
PUB	<u>\$</u>	Fees for court appointed attorney	RCW 9.94A.760

Felony Judgment and Sentence (FJS) (Prison) (Nonsex Offender)

(RCW 9.94A.500, .505)(WPF CR 84.0400 (7/2009))

WFR _____ Court appointed defense expert and other defense costs RCW 9.94A.760

\$ _____ DUI fines, fees and assessments

FCM/MTH ~~\$ 500.00~~ Fine RCW 9A.20.021; ☐ VUCSA chapter 69.50 RCW, ☐ VUCSA additional fine deferred due to indigency RCW 69.50.430

CDF/LDI/PCD \$ _____ Drug enforcement Fund # ☐ 1015 ☐ 1017 (TF) RCW 9.94A.760

NTF/SAD/SDI \$ 100.00 DNA collection fee RCW 43.43.7541

CLF \$ _____ Crime lab fee ☐ suspended due to indigency RCW 43.43.690

FPV \$ _____ Specialized forest products RCW 76.48.140

RTN/RJN \$ _____ Emergency response costs (Vehicular Assault, Vehicular Homicide, Felony DUI only, \$1000 maximum) RCW 38.52.430

\$ _____ Other fines or costs for: _____

\$ _____ **Total** RCW 9.94A.760

☒ The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:

☒ shall be set by the prosecutor.

☐ is scheduled for _____ (date).

☒ The defendant waives any right to be present at any restitution hearing (sign initials): _____

☒ **Restitution** Schedule attached.

☒ Restitution ordered above shall be paid jointly and severally with:

RJN	Name of other defendant	Cause Number	Victim's name	Amount
	VICTORIA ELAINE MARIE JONES	14-1-00774-4	Sheila [unclear]	_____
	DAVID LEE SMITH	14-1-00773-6	Sheila [unclear]	_____

The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8).

All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by DOC or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ _____ per month commencing _____. RCW 9.94A.760.

The defendant shall report to the clerk of the court or as directed by the clerk of the court to provide financial and other information as requested. RCW 9.94A.760(7)(b).

☐ The court orders the defendant to pay costs of incarceration at the rate of \$ _____ per day, (actual costs not to exceed \$100 per day). (JLR) RCW 9.94A.760.

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160.

4.4 DNA Testing. The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

☐ **HIV Testing.** The defendant shall submit to HIV testing. RCW 70.24.340.

4.5 No Contact:

☒ The defendant shall not have contact with TAYLER L WALESKE, QUINCEY J WALESKE, NATHAN M PANOSH, ANNETTE T WALESKE including, but not limited to, personal, verbal, telephonic, written or contact through a third party for 50 years (which does not exceed the maximum statutory sentence).

☒ The defendant is excluded or prohibited from coming within:

☐ 500 feet ☐ 880 feet ☒ 1000 feet of:

☒ TAYLER L WALESKE, QUINCEY J WALESKE, NATHAN M PANOSH, ANNETTE T WALESKE (name of protected person(s))'s

☒ home/ residence ☒ work place ☒ school

☐ (other location(s)) _____

☐ other location _____

for 50 years (which does not exceed the maximum statutory sentence).

☒ A separate Domestic Violence No-Contact Order, Antiharassment No-Contact Order, or Sexual Assault Protection Order is filed concurrent with this Judgment and Sentence.

4.6 Other: FIREARM USED IN THIS INCIDENT IS FORFEITED BY THE COURT.

4.7 Off-Limits Order. (Known drug trafficker). RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: _____

4.8 For Offenders on Community Custody, when there is reasonable cause to believe that the defendant has violated a condition or requirement of this sentence, the defendant shall allow, and the Department of Corrections is authorized to conduct, searches of the defendant's person, residence, automobile or other personal property. Residence searches shall include access, for the purpose of visual inspection, all areas of the residence in which the defendant lives or has exclusive/joint control/access and automobiles owned or possessed by the defendant.

4.9 If the defendant is removed/deported by the U.S. Immigration and Customs Enforcement, the Community Custody time is tolled during the time that the defendant is not reporting for supervision in the United States. The defendant shall not enter the United States without the knowledge and permission of the U.S. Immigration and Customs Enforcement. If the defendant re-enters the United States, he/she shall immediately report to the Department of Corrections if on community custody or the Clerk's Collections Unit, if not on Community Custody for supervision.

V. Notices and Signatures

5.1 Collateral Attack on Judgment. If you wish to petition or move for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, you must do so within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.

5.2 Length of Supervision. If you committed your offense prior to July 1, 2000, you shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purpose of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless

of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5). The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for purposes of your legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).

5.3 Notice of Income-Withholding Action. If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections (DOC) or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.

5.4 Community Custody Violation.

(a) If you are subject to a first or second violation hearing and DOC finds that you committed the violation, you may receive as a sanction up to 60 days of confinement per violation. RCW 9.94A.633.

(b) If you have not completed your maximum term of total confinement and you are subject to a third violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. RCW 9.94A.714.

5.5a Firearms. You may not own, use or possess any firearm, and under federal law any firearm or ammunition, unless your right to do so is restored by the court in which you are convicted or the superior court in Washington State where you live, and by a federal court if required. You must immediately surrender any concealed pistol license. (The clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040 and RCW 9.41.047.

5.5b ☒ Felony Firearm Offender Registration. The defendant is required to register as a felony firearm offender. The specific registration requirements are in the "Felony Firearm Offender Registration" attachment.

5.6 Reserved

5.7 Motor Vehicle: If the court found that you used a motor vehicle in the commission of the offense, then the Department of Licensing will revoke your driver's license. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke your driver's license. RCW 46.20.285.

5.8 Other: _____

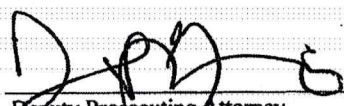
5.9 Persistent Offense Notice

The crime(s) in count(s) 01, 02, 03, 04 is/are "most serious offense(s)." Upon a third conviction of a "most serious offense", the court will be required to sentence the defendant as a persistent offender to life imprisonment without the possibility of early release of any kind, such as parole or community custody. RCW 9.94A.030, 9.94A.570

The crime(s) in count(s) _____ is/are one of the listed offenses in RCW 9.94A.030.(31)(b). Upon a second conviction of one of these listed offenses, the court will be required to sentence the defendant as a persistent offender to life imprisonment without the possibility of early release of any kind, such as parole or community custody.

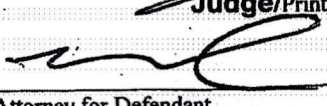
Done in Open Court and in the presence of the defendant this date: 4/29/19


Judge/Print Name: Vanderwood


Deputy Prosecuting Attorney

WSBA No. 35628

Print Name: Daniel A. Gasperino


Attorney for Defendant

WSBA No. 35425

Print Name: Michael P Green


Defendant

Print Name:

JASON ROBERT STOMPS

Voting Rights Statement: I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled.

My right to vote is provisionally restored as long as I am not under the authority of DOC (not serving a sentence of confinement in the custody of DOC and not subject to community custody as defined in RCW 9.94A.030). I must re-register before voting. The provisional right to vote may be revoked if I fail to comply with all the terms of my legal financial obligations or an agreement for the payment of legal financial obligations

My right to vote may be permanently restored by one of the following for each felony conviction: a) a certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) a court order issued by the sentencing court restoring the right, RCW 9.92.066; c) a final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) a certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 29A.84.660. Registering to vote before the right is restored is a class C felony, RCW 29A.84.140.

Defendant's signature: _____

I am a certified or registered interpreter, or the court has found me otherwise qualified to interpret, in the _____ language, which the defendant understands. I interpreted this Judgment and Sentence for the defendant into that language.

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at Vancouver, Washington on (date): _____

Interpreter

Print Name

I, Scott G. Weber, Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action now on record in this office.

Witness my hand and seal of the said Superior Court affixed this date: _____

Clerk of the Court of said county and state, by: _____, Deputy Clerk

Identification of the Defendant

JASON ROBERT STOMPS

14-1-00772-8

SID No: WA25111109

Date of Birth: 11/18/1973

(If no SID take fingerprint card for State Patrol)

FBI No. 977740VA6

Local ID No. 197892

PCN No. _____ Other _____

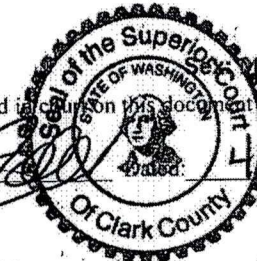
Alias name, DOB:

Race: W

Ethnicity:

Fingerprints: I attest that I saw the same defendant who appeared in court on this document affix his or her fingerprints and signature thereto.

Clerk of the Court, Deputy Clerk, _____



The defendant's signature: _____

Left four fingers taken simultaneously

Left
Thumb

Right
Thumb

Right four fingers taken simultaneously



Appendix 2.4

SUPERIOR COURT OF THE STATE OF WASHINGTON FOR CLARK COUNTY

STATE OF WASHINGTON,

Plaintiff,

v.

JASON ROBERT STOMPS,

Defendant.

Case No. 14-1-00772-8

FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR AN EXCEPTIONAL SENTENCE

This court has determined that an exceptional sentence below the standard range should be imposed based upon the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The defendant was a licensed bail recovery agent at the time of his conduct at issue in this case.
2. All counts included in the amended information for which the defendant was found guilty were based on a single course of conduct.
3. The multiple counts for Kidnapping in the Second Degree occurred because multiple victims were present at the home at the same time.

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW FOR AN
EXCEPTIONAL SENTENCE - 1**

- 1 4. None of the victims were physically injured by the defendant's actions.
- 2 5. The duration of the event was less than thirty minutes because of the timely
- 3 dispatch of law enforcement personnel to the scene who accurately assessed the situation
- 4 and took control of the scene.
- 5 6. Defendant has no prior criminal history.
- 6 7. With the weapon enhancements the standard sentence exceeds the maximum *standard*
- 7 sentence for the offenses. *range*
- 8 8. With Firearm Enhancements the standard range for Count 1 would be 225 to
- 9 243 months and the standard sentencing range for Count 2, 3, and 4 is 209 to 222 months.
- 10 9. The State agrees that an exceptional sentence is appropriate in this case.

11 CONCLUSIONS OF LAW

- 12 1. The presumptive sentence of the sentencing guidelines in this case is
- 13 clearly excessive in light of the purposes of the Sentencing Reform Act.
- 14 2. The policy goals of the Sentencing Reform Act are to:
- 15 Ensure that the punishment for a criminal offense is proportionate to
- 16 the seriousness of the offense and the offender's criminal history;
- 17 Promote respect for the law by providing punishment which is just;
- 18 Be commensurate with the punishment imposed on others
- 19 committing similar offenses;
- 20 Protect the public;
- 21 Offer the offender an opportunity to improve himself or herself;
- 22 Make frugal use of the state's and local governments' resources; and
- 23 Reduce the risk of reoffending by offenders in the community.
- 24

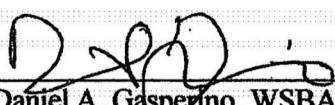
3. In applying the policy goals of the Sentencing Reform Act to the facts of this

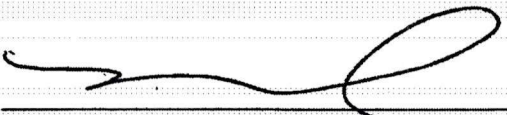
**FINDINGS OF FACT AND
CONCLUSIONS OF LAW FOR AN
EXCEPTIONAL SENTENCE - 2**

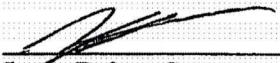
1 case, the court finds that an exceptional sentence of 12 months for each count is appropriate.

2 Dated this 29th day of April, 2015.

3
4
5 
6 JUDGE DEREK J. VANDERWOOD
7

8 
9 Daniel A. Gasperino, WSBA #35626
10 Deputy Prosecuting Attorney
11

12 
13
14 Michael P. Green, WSBA #35626
15 Attorney for Defendant
16

17
18 
19 Jason Robert Stomps
20 Defendant
21
22
23
24

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW FOR AN
EXCEPTIONAL SENTENCE - 3**

EXHIBIT 7

1
2
3
4
5
6
7
8 JASON STOMPS,

9 Petitioner to the Pardons and Clemency
10 Board,

DECLARATION OF
BRIAN JOHNSON

11 I am over the age of 18, and I am competent to testify.

12 **A. BACKGROUND**

- 13 1. My name is Brian R. Johnson. I am a Professor of Criminal Justice at Grand
14 Valley State University, Allendale, Michigan. A complete copy of my
15 curriculum vitae is attached as Exhibit 1.
- 16 2. I am widely considered to be a "recognized authority" in the field of Bail,
17 Bondsmen and Bail Recovery Agents. My opinions stem from my research in
18 the field and professional experiences.
- 19 3. My formal academic degrees include a Ph.D. in the Social Sciences/Criminal
20 Justice (1998-Michigan State University); a Master's in Labor and Industrial
21 Relations (1994-Michigan State University); a Master's in Criminal Justice
22 (1991-Michigan State University); and a Bachelor of Arts degree in Criminal
23 Justice from the University of Wisconsin.
- 24 4. Since 1994, I have been employed with Grand Valley State University. Grand
25 Valley State University is a public university of approximately 24,000 students.

DECLARATION OF BRIAN JOHNSON - 1

Kahrs Law Firm, P.S.
2208 NW Market St., #414 Seattle, WA 98107
Ph: (206) 264-0643 Fax: (206) 237-8555
mike@kahrlawfirm.com
Stomps - 0738

1 More information about the University can be found at its World Wide Web
2 Site, <http://gvsu.edu/>.

3 5. I currently hold the rank of Professor in the School of Criminal Justice. Since
4 1994, I have designed and taught police and security-related courses at Grand
5 Valley State University.

6 6. I have personally worked in the bail industry. As part of my research on bail
7 and bounty hunters, I have accompanied and personally participated in the
8 detection and apprehension of fugitives who absconded on misdemeanor and
9 felony charges and subsequently violated the conditions of their surety bond
10 agreements.

11 7. I have approximately 10 years experience in law enforcement training. In the
12 capacity I served as an assistant director (acting director for two years) and
13 police recruit trainer in the Grand Valley State University Police Academy.
14 This Police Academy is supervised by the Michigan Commission on Law
15 Enforcement Standards (MCOLES) and is required to meet all state certification
16 training requirements for police officers in Michigan. My primary training
17 responsibilities were related to training police recruits in defensive tactics and
18 firearms. This training also encompassed the application of the use of force
19 continuum in a variety of force-related training activities (practical and
20 classroom lectures) related to laws of arrest, felony arrest, building searches,
21 securing suspects, prisoner transport, prisoner care and treatment, and force de-
22 escalation techniques. I was also a certified firearms instructor and completed
23 force and firearms-related training programs through nationally recognized
24
25

1 organizations. A list of this training can be found in my curriculum vitae in
2 Exhibit 1.

- 3 8. I have conducted academic research on bail, bail bondsmen, and bail recovery
4 agents. This research has explored the working relationship between Bail
5 Recovery Agents and police officers, bail recovery legislation throughout the
6 United States, and an examination of fugitives who "skip". My bail-related
7 research has also been presented at national conferences and has been published
8 in academic peer reviewed journals.
- 9 9. To date I have published over 50 refereed journal articles, books, chapters and
10 technical reports on criminal justice issues. Since 1994, I have also presented
11 academic papers at regional and national conferences on topics related to
12 policing, security, and the bail industry.
- 13 10. I have been interviewed and cited regarding the bail industry and the practices of
14 bail recovery agents for newspapers and magazines throughout the United
15 States.

16
17 **B. ASSIGNMENT AND SUMMARY OF OPINION**
18

- 19 1. I have been asked by attorney Michael Kahrs on behalf of Jason Robert Stomps
20 to provide this declaration related to Stomps' actions as a fugitive recovery
21 agent. Kahrs has asked me to opine as to whether the activities and actions of
22 Stomps were appropriate and consistent with the actions of bail recovery agents
23 primarily in the context of locating and apprehending individuals.
- 24 2. I was asked to address this question based generally on my research and
25 practical experience on bail, fugitive recovery processes, and my knowledge of

1 police-related tactics and procedures related to force, firearms use, and searches.
2 If asked to provide information to individuals in the bail/bail recovery industry, I
3 would provide the same opinions.

4 **C. INFORMATION GATHERING PRACTICES OF BAIL RECOVERY AGENTS**

- 5
- 6 1. Bail recovery agents do not have the same degree of access to fugitive
7 information compared to public sector law enforcement officials and
8 organizations. In most cases, state law prohibits access to, and the use of
9 proprietary criminal justice databases to non-law enforcement personnel.
- 10 2. To determine the location of fugitives, bail recovery agents rely primarily on
11 information found or obtained from: the bail application form, indemnitors, and
12 from a fugitives' friends, acquaintances, and family members. Confidential
13 informants are also a commonly used means to locate fugitives. Open-source
14 and fee-based internet search tools are common technology-based resources.
15 Bail recovery agents can also engage in street-level information collecting
16 activities including patrolling neighborhoods, talking to residents, and checking
17 establishments that a fugitive may be suspected of or known to frequent.
- 18 3. Standard and consistent practices in the bail recovery industry were used by
19 Stomps to locate fugitive Barnes. Testimony shows that "Stomps was given the
20 complete file that we put together so he can start his investigation" Exhibit 13, p.
21 228, lines 24-25. According the bail bond agency (Ervin) "I gave him the
22 information that the cosigner gave us" Exhibit 13, p. 232, line 16. Stomps also
23 testified that "I made copies of the file, went over the file, and handed the file to
24 my partner" (Exhibit 13, p. 255; lines 11-12) "and I had my partner [David
25

1 Smith] to perform surveillance on the residence" (Exhibit 13, p. 256; lines 1-2).

2 Stomps also stated that his partner had done surveillance prior to the entry.

3 Exhibit 12, p. 175, line 6. Stomps also used information obtained from a
4 confidential informant. He "went off of a CI [Confidential Informant] tip and a
5 description that fit the size of the fugitive. Mr. Barnes" Exhibit 12, p. 175, lines
6 8-10. Other methods included the use of the databases Spokeo and IRB. Both
7 these databases are used by investigators. Exhibit 13, p. 271, line 25.

8 4. When conducting a search for a fugitive, there are no set industry protocols or
9 procedures for bail recovery agents on what location should be investigated first.
10 Bail recovery agents use logic and discretion in determining what location will
11 be investigated first.

12 5. In this case, it is reasonable that Stomps and his partner Smith decided to first
13 investigate the address that the indemnitor Sinan Hang reported/disclosed on the
14 bail application that Hang completed with Regan Bonds for Barnes' release.

15 6. Assuming that a fugitive (with additional felony warrants) does not want to be
16 apprehended, it would be illogical for that fugitive to return to and stay at the
17 primary address that the fugitive provided on the bail application form. Instead,
18 a bail recovery agent could reasonably assume that the fugitive would be staying
19 with a close acquaintance, such as a girlfriend who bonded him out, at the
20 address she listed on the bail application form.

21 7. The bail application form provided the specific address of the residence that
22 Stomps and Smith entered; the use of internet-based "for fee" search tools of
23 databases also provided information that the surety (Hang) had used the address
24 recently for her mail; and, surveillance of the house in question by Stomps'
25

1 partner (Smith) led to Mr. Smith identifying a person in the structure that
2 matched the description of Courtney Barnes (the fugitive). Stomps exercised
3 ordinary care and prudence in establishing reasonable suspicion that Barnes was
4 present in the home.

5 **D. ENTRY & USE OF FORCE**

- 6 1. I will be using my expertise as a police trainer and my police-related
7 certifications to provide a cogent response to the tactics used by Stomps.
8 2. While Stomps was not a police officer, the nature of his activities in
9 apprehending a fugitive are similar to those of police officers.
10 3. Both police officers and bail recovery agents perform the same tactics when
11 entering structures and securing fugitives.
12 4. Both bail recovery and law enforcement officials face the same risk of injury by
13 suspects, up to and including great bodily harm and/or death, during an
14 arrest/apprehension.
15

16 **1) The Entry was Unplanned**

- 17
18 1. I am aware that the State of Washington has regulations for planned forced
19 entries. There is, however, no detailed explanation on what constitutes a
20 planned force entry. RCW 18.185.010(112) states that a "planned forced entry"
21 means a premeditated forcibly entry.
22 2. The term planning in my opinion uses the following criteria. Planning implies
23 the working out of sub-components in some degree of elaborate detail.¹
24 Merriam-Webster defines a plan as a detailed formulation of a program of
25

1 (<https://en.wikipedia.org/wiki/Plan#Planning>)

1 action.2 . Planning can also be framed in the context of what events and actions
2 are necessary, when they must take place, who is to be involved and how the
3 various actions will interlock with one another. Brian Johnson, *Principles of*
4 *Security Management*, Prentice-Hall (2005). All of these terms imply that
5 planning is a rational-comprehensive process or premeditated means of reaching
6 a desired end state.

- 7 3. The review of the case transcripts shows that this entry was not premeditated,
8 but instead, an unplanned entry. First, Stomps was not fully present during the
9 surveillance of the home. Only his partner Smith was present. A planned forced
10 entry suggests that Stomps would be present and coordinating the forced entry in
11 greater detail with Smith and with law enforcement personnel. This would
12 require Stomps' physical presence. Planning for an entry requires a visual and
13 detailed assessment of the structure, occupants, and potential threats. Instead,
14 Stomps was out for dinner with his finance' and children during Smith's
15 surveillance of the residence. Stomps only arrived at the scene after his partner
16 (Smith) called Stomps to let him know that he had seen a person in the home
17 that matched the description of the fugitive Barnes.
18
19 4. The time period between the initial arrival of Stomps and the subsequent entry
20 was not long. This short time period suggests that Stomps and Smith did not
21 plan the details of the entry and apprehension of fugitive Barnes
22
23 5. Stomps was not properly equipped with his apprehension gear upon arrival to
24 the structure where Barnes was suspected to be in. A planned entry would
25

2 <https://www.merriam-webster.com/dictionary/plan>

1 suggest that the bail recovery agent is fully prepared for and wearing the proper
2 gear for an entry. In this instance, Stomps had to retrieve his tactical vest and
3 firearm that was secured in his trunk of his vehicle.

- 4 6. Stomps did not take his breaching tool (the railroad tie driver) with him to the
5 front door when initially requesting entry. Instead, he had to request his fiancé to
6 bring him the railroad tie driver (Direct by Mr. Green/Mr. Stomps, 265). If the
7 entry was planned, the tie driver should have been carried with him during his
8 first attempt at entering the structure.

9
10 **2) The Use of Force During the Entry**

- 11 1. Appropriate force decisions are based on the totality of the circumstances and
12 what an officer personally observed during the actual altercation with the
13 suspect(s) - not on 20/20 hindsight. The concept of reasonableness is an
14 objective one: the question is whether the officers' actions are objectively
15 reasonable in light of the facts and circumstances confronting them, without
16 regard to the underlying intent or motivation (see *Graham v. Connor*, 1989).
17
18 2. Based on my review of the incident, the use of force was appropriate and based
19 on the totality of circumstances and what a reasonable bail bond recovery agent
20 would do in the same type of recovery effort.
21
22 3. It is common practice throughout the United States that bail recovery agents
23 wear clothing that identifies them as bail recovery agents. This practice also
24 exists in states that have no statutorily defined or mandated identification or
25 clothing requirements for bail recovery agents.

- 1 4. Stomps was wearing appropriate identification and clothing during the
2 attempted apprehension. Testimony shows that Stomps was wearing a badge –
3 “it looked like there was maybe a badge on the front or back” [of the black
4 tactical vest he was wearing]. Exhibit 12, p. 155 lines 13-14. Testimony from
5 Deputy Nicholls also supports that Stomps was wearing a tactical overvest that
6 “...And then on the back of it, it said -- I think it was like “Fugitive Recovery
7 Agent.” Exhibit 12, p. 158; , lines 24 – p. 159, line 1.
- 8 5. Arrest scenes need to be secured. Knowing entry and exit points are part of any
9 arrest involving a suspect in a structure. In this case, Smith was responsible for
10 monitoring the back door of the house. Stomps, meanwhile, was responsible for
11 the front door of the residence. This is a common police practice to secure the
12 perimeter of a residence in order to reduce the risk of a fugitive escaping. This
13 practice is also a common tactic used by bail recovery agents.
- 14 6. Entering any structure is dangerous. Officers may be unfamiliar with the
15 specific floorplan of structures; furnishings and other objects in the structure can
16 be a barrier to entry and egress and provide suitable forms of concealment
17 and/or cover for threats. Lighting can impact the ability of officers to effectively
18 view and control the threat environment. All of these factors (and others)
19 require that officers be tactically prepared to address any threats that emerge.
- 20 7. The number of occupants, their criminal history and activities, and the
21 availability of weapons is oftentimes unknown to law enforcement officials and
22 bail recovery agents when performing an entry. This increases the risk of
23 personal harm for these individuals, up to and including great bodily harm or
24
25

1 death, when carrying out an apprehension. Being tactically prepared and armed
2 with a handgun to address these threats is therefore necessary.

3 8. Tactical preparedness and the use of appropriate force-related actions are based
4 in part on known information. In this case, the fugitive Barnes was known to
5 have felony warrants. The fugitive was also believed to be in the residence.
6 Because of the fugitive's criminal history, having a drawn weapon when
7 entering and searching the structure is justified.

8 9. Having a handgun drawn is a common police practice for police when
9 conducting an entry into a structure. This is also a common practice among bail
10 recovery agents when apprehending fugitives.

11 10. Stomps knocked and announced his presence while on the front porch. This is a
12 common police and bail recovery agent practice.

13 11. Stomps used verbal commands throughout the attempted apprehension.
14 Examples from the exhibits that "telling us to come down with our hands on our
15 head where they could see them" Exhibit 12, p. 91 Line 3-4; and ordered to "Go
16 downstairs and lie on the floor" Exhibit 12, p. 105 line 25 with Pahosh's hand
17 "behind our head" Exhibit 12, p. 106 line 4. The 911 recording also verifies that
18 and unidentifiable bail recovery agent used verbal commands to order the
19 subjects down to the main floor of the house, ordering them down to the floor
20 with their hands above their heads. Exhibit 12, p. 121 lines 2-17. "We were told
21 to come downstairs and get on the ground." Exhibit 12, p. 127 lines 7-8. The
22 interview of Stomps by Deputy Boardman also verifies that "He [Stomps] said
23 he ordered then all down - or from the stairs into the center of the room - he
24 said that the males were monkeying around, so he ordered them to cuff
25

1 themselves together." Exhibit 12, p. 174, lines 11-14. Stomps then verbally
2 instructed the three inhabitants to lay flat on the ground. Exhibit 12, p. 93 line
3 12.

4 12. All individuals in a residence, regardless of age and gender, can be a threat to
5 officers. To reduce the potential threat of physical harm from the occupants, it
6 is essential that individuals be controlled.

7 13. Securing individuals with handcuffs during an entry/raid is a standard law
8 enforcement practice to control their actions.

9 14. Individuals in a home during a raid or apprehension need to be secured to
10 protect officers. One method to protect against the potential for physical
11 violence against those persons conducting the apprehension is to handcuff
12 individuals found within the structure. Once the scene is secure and individuals
13 are not determined not to be a threat, handcuffs can then be removed.

14 15. Based on the totality of the circumstances in this incident – a minimum of three
15 known potential threats in the home, it is reasonable that Stomps secured the
16 individuals with handcuffs for his own safety.

17 16. The testimony shows that Stomps threw down a pair of handcuffs to Nathan and
18 told Nathan to handcuff himself to to the other male present. Exhibit 12, 93 line
19 10-12. "[H]e actually handed me the handcuffs and told me to handcuff myself
20 to Quincy. Exhibit 12, p. 107 lines 1-2. This activity was appropriate based on
21 the totality of the circumstances. Some factors to consider is that there were
22 three subjects and only Stomps covering them; the house had not been fully
23 searched for additional threats.
24
25

- 1 17. Generally, police use a contact/cover approach when handcuffing. One officer
2 is responsible for handcuffing the subject (the contact), while the other officer
3 covers or monitors the actions of the suspect and the threat environment. In this
4 case, there was no immediate contact person available. Smith (Stomps' partner)
5 was searching the structure for the fugitive Branes, and ensuring that the
6 structure was free from any other threats. Smith was not available to serve as
7 the contact officer, which would have permitted Stomps to handcuff the
8 subjects. While not a "textbook" form of handcuffing, this was the only
9 objectively reasonable solution to handcuffing the subjects during this time
10 period of the event.
- 11 18. Having a weapon drawn and scanning a threat environment is a common police
12 and bail recovery agent practice for felony and/or high risk situations.
- 13 19. Stomps was tactically prepared when he had his firearm drawn, scanning the
14 household, including the stairs, for any threats.
- 15 20. If a weapon is holstered during an entry, police officers are at a tactical
16 disadvantage when responding to threats. This is due to the reaction time that is
17 needed to respond to threats. In any force situation, an officer must first identify
18 and mentally process if there is a valid threat and then physically respond to the
19 threat by drawing the firearm from the holster. Then, the officer needs to
20 position the firearm on target. Oftentimes this time period related to moving
21 one's hand to the holster, mechanically manipulating the retention device(s) on
22 the holster, drawing the weapon, and getting the firearm on target requires more
23 time than the threat's action time against an officer, who may already have
24 mentally planned the attack, and has a firearm point at and ready to deploy
25

1 against the officer. This is known as the reaction/response time gap. To
2 compensate for this action/reactionary time gap, police officers are trained to
3 have their weapon out of the holster or drawn, and use that weapon to tactically
4 scan the threat environment, pointing it toward threats and threat zones. Brian
5 Johnson, *Crucial Elements of Police Firearms Training: Refine Your firearms*
6 *Skills, Training and Effectiveness* Looseleaf Law Publications pp. 10-11 (2007).

7 **E. CONCLUSION**

- 8 21. Based on my experience in researching and working with bail recovery agents in
9 apprehensions, Stomps acted as reasonable bail recovery agent when investigating
10 the location of Barnes (the fugitive).
11
12 22. The entry of the Waleske home by Stomps was unplanned.
13
14 23. Stomps' force-related activities were appropriate and consistent with what a
15 reasonable bail recovery agent would do in the same or similar situation.
16
17 24. I hereby declare under penalty of perjury under the laws of the State of
18 Washington that the forgoing is true and correct to the best of my ability.

19 Signed this 6th day of March, 2019, at Grand Rapids, Michigan.

20 

21 BRIAN JOHNSON, PhD
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23
24
25

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BRIAN R. JOHNSON, Ph.D.

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EDUCATION:

Michigan State University, East Lansing, MI:

Ph.D. in Social Sciences/Criminal Justice. May, 1998. Cognates in Criminal Justice, Labor Relations, and Sociology/Organizational Behavior. Dissertation Title: An Exploratory Analysis of Act 312 Arbitration in Michigan.

Michigan State University, East Lansing, MI:

Masters of Labor and Industrial Relations. May, 1994. Emphases in Industrial Relations and Human Resource Management.

Michigan State University, East Lansing, MI:

Masters of Science in Criminal Justice. December, 1991. Emphases in Police Administration and Correctional Administration. Thesis Title: Organizational Change in the Genesee County Jail.

University of Wisconsin - Eau Claire, Eau Claire, WI:

Bachelor of Arts Degree. August, 1987. Comprehensive major in Criminal Justice. Requirements for a second major in Sociology have been fulfilled.

PROFESSIONAL EXPERIENCE:

Grand Valley State University, Allendale, MI:

August 1994 to present. Full Professor. Three prep course load per semester. Activities include the design, presentation, management of course materials and assignments, research, university committee and community service, student counseling, and advising.

University of North Alabama, Florence, AL:

August 2007 to August, 2009. Full Professor. Graduate Program Coordinator (on leave from GVSU).

Grand Valley State University Police Academy, Allendale, MI:

May 1995 to March, 2003. Assistant Director & Use of Force Coordinator. MCOLES certified police academy. Responsibilities include curriculum development; scheduling; supervision of academy activities; personnel management; and, training in police skill areas. Interim Director: 2001-2002.

Michigan State University, East Lansing, MI:

September 1988 to May 1994. Teaching/Research Assistant. Taught Criminal Justice courses, prepared and designed course materials, assignments and exams. Guest/substitute instructor; conducted research in criminal justice related topics; authored scholarly monographs for presentations to regional and national conferences.

PROFESSIONAL EXPERIENCE:

(continued)

Columbia Sussex Corporation, East Lansing, MI: September 1996 to October, 2007. Security Officer. Proprietary security/loss prevention services at the East Lansing Marriot at University Place. Part-time employment.

E.W. Sparrow Hospital, Lansing, MI: April 1994 to August 1994. Security Officer. Proprietary security services to a 400 bed, 300 acre hospital campus including vehicular and foot patrol, employee and guest escort services, stationary assignments throughout the complex, responding to emergency situations, report writing, and extensive public relations activities with employees and guests of the facility.

TCS Security Consultants, Charlotte, MI:

May 1989 to August 1994. Security Consultant. Contract security and loss prevention services to residential and institutional establishments. Other activities including the supervision and training of security employees, scheduling, liaison with clients, and the construction of a public relations/sales package, and a policy and procedure manuals for TCS employees.

Village of Combined Locks Police Department, Combined Locks, WI:

May 1988 to September 1988. Police Officer. Responsibilities included the enforcement of laws and values of the community, responding to citizen calls for service, patrol activities, mediating domestic and civil disputes, investigating civil and criminal incidents, responding to medical emergencies, and other law enforcement and public welfare functions.

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Johnson, B.R. & Bridgmon, P.B. (2009, June). Depriving civil rights: An exploration of 18 U.S.C. 242 criminal prosecutions, 2001-2006. *Criminal Justice Review*, 34(2), 196-209.

Warchol, G.L. & Johnson, B.R. (2009, Spring). Wildlife crime in the game reserves of South Africa. *International Journal of Comparative and Applied Criminal Justice*, 33(1), 143-154.

Johnson, B.R. & Warchol, G.L. (2007, December). Cold weather training issues. *The Police Chief*, 54(12), 108-111.

Johnson, B.R. & Warchol, G.L. (2007, December). Supplement to cold weather training issues. *The Police Chief*. Extended on-line web version.

Johnson, B.R. & Kingshott, B.L. (2007, August). Property crimes at O'Hare International Airport Post 9/11. The impact of increased security. *Aviation Security International*, 27-30.

Breen, M. & Johnson, B.R. (2007). Citizen police academies: An analysis of enhanced police-community relations among citizen attendees. *The Police Journal*, 80(3), 246-266.

Johnson, B.R., McKenzie, D. & W. Crawley. (2007). Grievance arbitration in law enforcement: The Wisconsin experience. *Journal of Collective Negotiations in the Public Sector*, 31(4), 343-360.

Johnson, B.R. & Hughes, F. (2003, November/December). Training Dyslexics in skill-based applications. *The Law Enforcement Trainer*, 18(6), 18-25.

Johnson, B.R. & Warchol, G.L. (2003, Spring). Bail agents and bounty hunters: Adversaries or allies of the justice system? *American Journal of Criminal Justice*, 27(2), 145-165.

Johnson, B.R.; McKenzie, D. & G.L. Warchol. (2003, December). Corporate kidnapping: An exploratory study. *Journal of Security Administration*, 26(2), 13-31.

Swift, S. & Johnson, B.R. & Postuma, R. (2002). An exploratory analysis of the selection of arbitrators in compulsory interest arbitration proceedings: The Michigan experience. *Journal of Collective Negotiations in the Public Sector*, 30(1), 77-90.

Warchol, G.L., Payne, D.M. & B.R. Johnson (1999). Federal forfeiture: Law, policy and practice. *The Justice Professional*, 11, 403-423.

Johnson, B.R. & McCatty, P.A. (1998, October). Security's amazing recovery. *Security Management*, 42(10), 30-41.

Warchol, G.L. & Johnson, B.R. (1998, Fall/Winter). The seduction of asset forfeiture. *L.A.E Journal*, 58-59_4, 49-56.

Warchol, G.L. & Johnson, B.R. (1999). A cross sectional quantitative analysis of federal asset forfeiture. In Dantzker, M.L.: *Readings for Research Methods for Criminology and Criminal Justice*. Boston: Butterworth-Heinemann.

ARTICLES:

(cont.)

Johnson, B.R. & Warchol, G.L. (1997). Guilty property: A qualitative analysis of civil forfeiture. *American Journal of Criminal Justice*, 21 (1), 61-83.

Johnson, B.R. & Warchol, G.L. (1997, June). Giving security space at the mall. *Security Management*, 41(6), 87-93.

Johnson, B.R., Warchol, G.L., & Bumphus, V.W. (1997). Police residential requirements: An exploratory analysis. *Journal of Collective Negotiations in the Public Sector*, 26 (1), 43-64.

Johnson, B.R., Warchol, G.L. & K.A. Bailey (1997). Police-compulsory arbitration in Michigan: A logistic model analysis of environmental factors. *Journal of Collective Negotiations in the Public Sector*, 26 (1), 27-41.

Warchol, G.L., Payne, D. & Johnson, B.R. (1996). Criminal forfeiture: An effective alternative to civil proceedings. *Police Studies*, 19 (3), 51-66.

Johnson, B.R. & Nowak, P. (September, 1996). Stress and officer-involved shootings - the agency's responsibility. *The Police Chief*, 63(9), 49-54.

Warchol, G.L. & Johnson, B.R. (March, 1996). Ensuring the future of asset forfeiture programs. *The Police Chief*, 63(3), 49-54.

Johnson, B.R. & Warchol, G.L. (1996, Winter). Police compulsory arbitration: A review of the research. *Government-Union Review*, 17(1), 23-52.

Johnson, B.R., VanMeter, C.W., & Walker, R.O. (1995, Summer). The effectiveness of computer based education in criminal justice undergraduate curricula - an evaluation. *Police Computer Review*, 4 (3), 11-18.

TECHNICAL REPORTS:

Johnson, B.R. & Kierkus, C.A. (2018). Blue Courage in Michigan: Final Report. US Department of Justice, Bureau of Justice Assistance.

Child Protection Mediation in Michigan: Interim Report – SCAO (2018).

Michigan DWI/Sobriety Court Ignition Interlock Evaluation Report (2016).

Michigan DWI/Sobriety Court Ignition Interlock Evaluation Report (2015).

Michigan DWI/Sobriety Court Ignition Interlock Evaluation Report (2014).

20th Judicial Circuit Adult Drug Treatment Court Process & Outcome Report (2013).

Michigan DWI/Sobriety Court Ignition Interlock Evaluation Report (2013).

Michigan DWI/Sobriety Court Ignition Interlock Evaluation Report (2012).

Internal Affairs Citizen Complaint Report: City of Grand Rapids Police Department (2005).

BOOK REVIEWS:

Perez, D.W. (2011). Paradoxes of police work (2nd ed.). Textbook review for DELMAR Publishers.

Arrigo & Williams (2007). Criminology. Textbook reviewer for Burton House, Ltd (Prentice Hall).

Rawlings, P. (2002). Policing: A short history. Portland, OR: Willan. In Police Quarterly, 5(3), 409-411 (September, 2002).

Burpo, J.; Delord, R. & Shannon, M. (1997). Police association power, politics, and confrontation: A guide for the successful labor leader. Springfield, IL: Thomas. In Police Quarterly, 3(1), 1998.

Cole, R. (1997). Management of internal business investigations: A survival guide. In Criminal Justice Review, 22(2), 263-265 (Autumn, 1998).

Gaines, L & Worrall (2000). Police Administration, (2nd ed.) Textbook reviewer for Prentice Hall Publishers.

Hagen, F. (1995). Introduction to Criminology. Textbook review for Nelson-Hall Publishers.

PAPERS PRESENTED & PANELS:

Johnson, B.R. & Kierkus, C. Preliminary findings from the Michigan CPM Program. Paper Presented at the Annual ACJS Conference: New Orleans, LA, February 13-17, 2018.

Johnson, B.R. & Kanaboshi, N. Civil rights violations involving private security: A Review of 18 U.S.C. §242. Paper Presented at the Annual ACJS Conference: Kansas City, MO: March 21-25, 2017.

Kierkus, C. & Johnson, B.R. Do ignition interlocks devices reduce drunk driving in a population of chronic DWI offenders? Paper Presented the Annual ASC Conference: New Orleans, LA: November 16-19, 2016.

Johnson, B.R. & Kierkus, C. Reducing and Controlling Recidivism: Findings from the Ottawa County ADTC. Paper Presented the Annual ACJS Conference: Orlando, FL: March 3-7, 2015.

Johnson, B.R. & Kierkus, C. Reducing and Controlling Recidivism: Findings from the Ottawa County ADTC. Paper Presented the Annual ACJS Conference: Orlando, FL: March 3-7, 2015.

Barton-Bellessa, S., Johnson, B.R. & Shon, P. An Exploratory Study of School Crime and Rural Teacher and Staff Victimization. Paper Presented at the Annual ACJS Conference: Philadelphia, PA: February 18-22, 2014.

Johnson, B.R. & Barton-Bellessa, S.M. Consequences of School Violence: Personal Coping & Protection Measures.” Paper Presented the Annual ACJS Conference: Dallas, TX: March 19-23, 2013.

PAPERS PRESENTED

& PANELS:

(cont.)

Kierkus, C. & Johnson, B.R. A preliminary look at Michigan's Sobriety Court/Ignition Interlock Program for Repeat DWI Offenders. Paper Presented the Annual ACJS Conference: Dallas, TX: March 19-23, 2013.

Shannon M. Barton-Bellessa, Brian R. Johnson, & Phillip C. Shon (2014). "An Exploratory Johnson, B.R. "The Economic Espionage Act & Intellectual Property Theft." Paper Presented the Annual ACJS Conference: New York, NY: March 12-17, 2012.

Johnson, B.R. "Police Systems: Issues in Collective Bargaining." Paper Presented the Annual ACJS Conference: Toronto, Ontario, Canada: March 1-5, 2011.

Johnson, B.R. & Stevens, R. "The Regulation & Control of Bail Recovery Agents: An Exploratory Study." Paper presented at the Midwestern Criminal Justice Association, Chicago, IL: September 23-25, 2010.

Johnson, B.R., Connolly, E. & T.S. Carter. Corporate social responsibility: The role of Fortune 100 companies in domestic & natural disasters. Paper Presented the Annual ACJS Conference: San Diego, CA, February 23-27, 2010.

Johnson, B.R. Kierkus, C., & Yalda, C. "Who Skips: An Analysis of Bail Bond Failure to Appears." Paper presented at the Midwestern Criminal Justice Association, Chicago, IL: September 24-26, 2009.

Johnson, B.R. & Carter, T.S. Civil Recovery & Shoplifting: A Review of State Laws. Paper Presented the Annual ACJS Conference: Boston, MA, March 10-14, 2009.

Johnson, B.R. & Bridgmon, P.B. Depriving Civil Rights: An exploration of 18 U.S.C. 242 criminal prosecutions, 2001-2006. Paper Presented the Annual ACJS Conference: Cincinnati, OH, March 11-15, 2008.

The state of security programs post-9/11: A pedagogical analysis. Roundtable Panel Discussant. Academy of Criminal Justice Sciences (ACJS) Annual Conference: Cincinnati, OH, March 11-15, 2008.

Airport security: Is it futile? Roundtable Panel Discussant. Academy of Criminal Justice Sciences (ACJS) Annual Conference: Cincinnati, OH, March 11-15, 2008.

Johnson, B.R. Property Crime at O'Hare International Airport: An Examination of the Routine Activities Approach. Paper Presented the Annual ACJS Conference Seattle, WA: March 13-18, 2007.

Johnson, B.R. & Breen, M. "Attitudinal Changes among Citizen Police Academy Attendees." Paper presented at the Midwestern Criminal Justice Association, Chicago, IL: September 2-30, 2006.

Johnson, B.R. & Fisk, T. "Police Pension Systems in Michigan Sheriff's Agencies." Paper presented at the Academy of Criminal Justice Sciences (ACJS), Chicago, IL March, 2005.

**PAPERS PRESENTED
& PANELS:**

(cont.)

Johnson, B.R. & Crawley, W. "Grievance arbitration in law enforcement: The Wisconsin Experience." Paper presented at the Academy of Criminal Justice Sciences (ACJS), Las Vegas, NV: March 9-14, 2004.

Johnson, B.R. & Hughes, F.S. "Training Police Officers Who Have Learning Disabilities in Skill-Based Applications." Paper presented at the Midwestern Criminal Justice Association, Chicago, IL: October, 1-3, 2003.

Johnson, B.R. & McKenzie, D. "Corporate Kidnapping: Issues of Definitions, Monitoring & Reporting." Paper presented at the American Society of Criminology, October, 2002.

Johnson, B.R. & Kalinich, D.B. "Future Issues in Security." Paper presented at the Academy of Criminal Justice Sciences (ACJS), March, 2000.

Johnson, B.R. & Warchol, G.L. "Bail Agents: Adversaries or Allies of the Police? Paper presented at the American Society of Criminology (ASC), Toronto, Canada, IL: November 17-20, 1999.

Johnson, B.R. & Warchol, G.L. "Over-Reliance on Compulsory Arbitration in Michigan: The Narcotic Effect in Action". Paper presented at the Academy of Criminal Justice Sciences (ACJS), Orlando, FL: March 9-13, 1999.

Chair/Discussant on Hate Crime: Academy of Criminal Justice Sciences (ACJS), Orlando, FL: March 9-13, 1999.

Johnson, B.R. & Warchol, G.L. "A Logistic Regression Analysis of Bargaining Factors Related to the Use of Act 312 arbitration in Michigan." Paper presented at Academy of Criminal Justice Sciences (ACJS): March 10-14, 1998.

Johnson B.R. & Warchol, G.L. "Violent Crime in the Workplace: Reporting Practices." Paper presented at the Academy of Criminal Justice Sciences (ACJS): March 10-14, 1998.

Johnson, B.R. & Warchol, G.L. "Internal Bargaining Dynamics and their effects on the use of Act 312 Arbitration in Michigan." Paper presented at the Academy of Criminal Justice Sciences (ACJS): Louisville, KY, March 11-15, 1997.

Johnson, B.R. St. Amour, A. & T. Ackerman. "Reducing and Controlling Insurance Fraud: A Qualitative & Quantitative Analysis." Paper presented at the Academy of Criminal Justice Sciences (ACJS): Louisville, KY, March 11-15, 1997.

Johnson, B.R. "A.B.D. & Academic Employment: The Challenge to Completion." Panel Presentation at the American Society of Criminology, 48th Annual Meeting: Chicago, IL: November 20-23, 1996.

Warchol, G. & Johnson, B.R. "Asset Forfeiture: An Economic Assessment." Paper presented at the American Society of Criminology (ASC), Chicago, IL: November 20-23, 1996.

**PAPERS PRESENTED
& PANELS:**
(cont.)

Johnson, B.R. & Warchol, G.L. "Predicting Police Compulsory Arbitration - A Theoretical Perspective." Paper presented at the Academy of Criminal Justice Sciences (ACJS), Las Vegas, NV: March 12-16, 1996.

Johnson, B.R. & Ackerman, T.H. "Prevention of Violence in the Workplace: An Examination of Personnel Selection Methods Employed in Michigan Hospitals." Paper presented at the Academy of Criminal Justice Sciences (ACJS), Las Vegas, NV: March 12-16, 1996.

Warchol, G., Witt, B.C. & Johnson, B.R. "Print Media Depiction of High-Level White-Collar Crime." Paper presented at the American Society of Criminology (ASC), Boston, MA: November 14-18, 1995.

Warchol, G. & Johnson, B.R. "Criminal Forfeiture: An Effective Alternative to Civil Proceedings." Paper presented at the Midwest Criminal Justice Association (MCJA), Chicago, IL: October 5, 1995.

Johnson, B.R., VanMeter, C.W., & Walker, R.O. "Computer Based Education in Criminal Justice: An Evaluation." Paper presented at the Academy of Criminal Justice Sciences (ACJS), Boston, MA: March 8-11, 1995.

Johnson, B.R. "Officer Attitudes Toward Residential Requirements." Paper presented at the Academy of Criminal Justice Sciences (ACJS), Chicago, IL: March 8-12, 1994.

Johnson, B.R. & Bumphus, V. "Factors Affecting Correctional Officers Perceptions of Safety and Communication - From a Traditional to New Generation Jail." Paper presented at the Midwest Criminal Justice Association (MCJA), Chicago, IL: September 15-17, 1993.

Johnson, B.R., Horvath, F.S. & M. Martin. "The Use of Auxiliary Police Personnel in Michigan." Paper presented at the Midwest Criminal Justice Association (MCJA), Chicago, IL: October 2-4, 1991.

Johnson, B.R. & Ackerman, T.H. "An Overview of the Development of Detectives and Criminal Investigation in the United States." Paper presented at the Academy of Criminal Justice Sciences (ACJS), Nashville TN: March 5-9, 1991.

Ackerman, T.H. & Johnson, B.R. "The Selection and Training of Municipal Police Detectives in the United States." Paper presented at the Academy of Criminal Justice Sciences (ACJS), Nashville TN: March 5-9, 1991.

Johnson, B.R. "A Historical Analysis of the Development and Evolution of Criminal Investigation in the United States." Paper presented at the Midwest Criminal Justice Association (MCJA), Chicago, IL: October 3-5, 1990.

CERTIFICATIONS/TRAINING:

Federal Laboratories® Rifle Wound Ballistics Seminar: August 23, 2006.

Federal Laboratories® Handgun Wound Ballistics Seminar: June 9, 2005.

Simunitions® Instructor Certification: August, 2003.

CERTIFICATIONS/TRAINING:

(cont.)

Rapid Response Instructor Certification: April 2-4, 2002.

Physical Training Specialist Certification – The Cooper Institute: April, 2002.

Tactical Rifle Certification: Heckler & Koch, October, 2001.

Methamphetamine/Clandestine Labs Trainer Certification: April, 2001.

Tactical Raid Entry Certification: Heckler & Koch, September, 2000.

Tactical Shotgun Instructor Certified. Heckler & Koch, September, 1999.

Bureau of Justice Assistance National Guns First Training Course: April 3, 1999.

Emergency Response to Terrorism Incidents – Advanced Level: Michigan State Police, Oct 14, 1998.

Smith & Wesson Armorer's School: May, 1998

FATS Operating School, Kent County Sheriff's Department: May 28, 1997.

Offshoots (MLEOTC Certified) Firearms Instructor School. August 14-18, 1995.

Contemporary Issues in Emergency Management - Vision for the Future. May 24-25, 1995.

An Introduction to Computer-Related Crimes (MSU). March 28 - April 1, 1994.

Security in the Global Marketplace: Understanding Security's Competitive Impact. Oct 12-13, 1993.

Total Quality Management for Human Resource Professionals. June 23- 24, 1993.

Developing an Effective Personnel Policy Manual: June 22, 1993.

Labor-Management Committees: Improving Their Effectiveness: June 9, 1993.

Discipline and Discharge: A Management Workshop: June 3, 1993.

Thirteenth Annual Forensic Pathology: The Investigation of Violent Death: Sept. 9-13, 1991.

ADMINISTRATIVE ACTIVITIES:

GVSU SCJ Departement Emergency Coordinator, Aug, 2018 to present.

GVSU SCJ Internship Coordinator, 2015-August, 2018.

GVSU SCJ Undergraduate Program Coordinator: Grand Valley State University, 2013-present.

Training Coordinator, April – June, 2013. Designed and delivered Training programs to Security Police Officers under Michigan Public Act (PA 330 Private Security Guard Act of 1968) and all MCOLES requirements. Hired & supervised training staff. Responsible for all facets of training: proposal writing, budgeting, hiring staff, payroll, liaison w/state officials, record keeping.

SCJ Textbook Coordinator & Editor, 2010 to 2013. Responsible for working with 10 GVSU SCJ faculty to produce an introductory text: "Justice & Society: An Introduction." ISBN 978-0-615-38592-1). All profits from this book are used for an endowed scholarship fund. Responsibilities include working with all faculty on chapter submissions, editorial work/manuscript preparation, copyright, book orders & liaison with publisher. Currently working on 3rd edition.

Training Coordinator, April 2011 to September, 2011. Designed and delivered Training programs to Security Police Officers under Michigan Public Act (PA 330 Private Security Guard Act of 1968) and all MCOLES requirements. Hired & supervised training staff. Responsible for all facets of training: proposal writing, budgeting, hiring staff, payroll, liaison w/state officials, record keeping.

Graduate Coordinator: University of North Alabama, 2008 & 2009. In a newly created CJ program, administrative responsibilities included overseeing policies and procedures for the criminal justice graduate program, writing new student manual and standards for comprehensive exams, admissions, curriculum assessment, and supervision of graduate students & graduate assistants.

Assistant Director, 1995-2000/Interim Director, GVSU Police Academy, 2001-2002. Supervised staff of 40+ police trainers; payroll, staffing, hiring, budget, liaison with state of Michigan and law enforcement agencies and chiefs, maintained accurate records of instructors, examinations, and recruit performance for state inspection. Represent GVSU at state meetings, etc. Submission of mandatory reports and documents to the Michigan Commission on Law Enforcement Standards (MCOLES), & community outreach and recruiting activities. Successfully converted academy from a pre-service to a basic academy.

PA 330 Training Program Director: PA 330 Security Police Academy; April, 2011-July, 2013 (120+ hour program).

PA 330 Training Program Director: PA 330 Security Police Academy; April, 2011-July, 2011 (120+ hour program).

Chair: Provost's Ad Hoc Grievance Committee, 2010. Conduct grievance hearings; provide Provost recommendations based on faculty handbook, university policies, etc.

Chair: CCPS Faculty Advisory Committee, 2006-2007. Criminal Justice Rep. Advise Dean of CCPS on faculty concerns issues related to faculty workload, scholarship, service, etc.

**ADMINISTRATIVE
ACTIVITIES**
(cont.)

Chair: Security and Crime Prevention Section, Academy of Criminal Justice Sciences. 2007-2009; 208 to present. As chair, in close cooperation with ACJS officials and section members, successfully got the section off of probation and back to full status, increased membership in section by 200%+ and subsequently made the section financially solvent. Past Chair, 2010 & 2011.

Deputy Editor: Journal of Applied Security Research, March 2008 to present. Assist Editor in manuscript reviews, publication decisions, and other administrative issues related to the journal.

Vice Chair: ACJS Security & Crime Prevention Section 2006-2007.

PA 330 Training Program Director: PA 330 Security Police Academy; January – April, 2005 (120+ hour program). Design, hire & supervise staff, deliver 120 hour+ training program.

Liaison with state of Michigan (MLEOTC) officials, submission of records and reports to the state of Michigan.

Chair: Curriculum Committee for School of Criminal Justice – 2001- 2002.

Chair: Social Science Divisional Personnel Committee: 2002-2004. Review contract renewals, requests for tenure, promotions and sabbaticals. Conduct personnel meetings and personnel decisions in accordance with the GVSU faculty handbook; provide written reports to the Dean.

**UNIVERSITY
ACTIVITIES:**

Chair: Safe & Sustainable Communities (GVSU Civic Action Plan), 2016 to present.

GVSU University Research Council: 2017 to present.

GVSU Freshman Orientation Staff: Summers, 2009-2017.

GVSU University Assessment Committee: GVSU, 2012 to 2014.

GVSU Faculty Salary & Budget Committee: 2011 to 2014.

SCJ Representative: General Education Committee, 2011 to 2014.

Strategic Planning and Assessment Committee, GVSU SCJ, 2010 -2011.

University Writing Skills Committee, 2010-2014.

SCJ Undergraduate Curriculum Committee, 2010-2014.

SCJ Graduate Program Curriculum Committee, 2010-2014.

Faculty Representative: GVSU Rifle & Pistol Club, 2007 to present.

**UNIVERSITY
ACTIVITIES:**
(continued)

University Academic Integrity Task Force, 2010.

Chair: SCJ Adjunct Partnership (Police Adjuncts), 2010.

Campus Security & Safety Review Task Force (UNA), 2008.

Library Personnel Committee Representative: Winter, 2006.

CJ Representative: Provost's Liberal Arts Initiative Task Force; Winter, 2005.

CJ Representative: Provost's Liberal Arts Initiative Task Force; Winter, 2004.

December 5-7, 2004. Palau Presidential Visit (31 hours total): Worked with President's Office and Office of Alumni Relations.

University Academic Senate Member: 2002; Winter, 2003.

Social Science Divisional Personnel Committee: 1998 - Winter, 2002.

Member: University Wide Grievance Committee: 2000-2001.

University Academic Senate Member: 2000-2002.

Faculty Grievance Committee - GVSU - 1996 to 2002.

Faculty Personnel Committee - GVSU -Winter Semester, 1998 - 2002.

Social Science Personnel Committee Member: Winter, 1998.

Social Science Faculty Development Committee: 1996 to 1997.

GVSU Minority Mentorship Program: Mentor 1995 & 1996.

Social Science 300 (Research Methods) Task Force - GVSU. Criminal Justice Representative for proposed changes in revisions for Research Methods Curriculum, 1995.

SCJ England Exchange Program - Faculty Advisor, March, 1996.

SCJ Private Security Advisory Board Member - 1994 to 1998.

Council of Graduate Students (COGS) - MSU. Criminal Justice Representative, August, 1989 to August, 1993.

Michigan State University, Department of Public Safety. Co-Chair, DPS Oversight Committee, August, 1991 to August, 1993.

University Committee on the Academic Environment-MSU. Graduate Student Representative, 1990-1991.

College of Social Science Hearing Board-MSU.-Criminal Justice Representative, 1990-1991.

**UNIVERSITY
ACTIVITIES:**
(continued)

Graduate Program Coordinator - UNA

CJ Search Committee Member: Winter, 2006.

Faculty Search Committee Member: Fall, 2005

Chair: Faculty Search Committee – Fall, 2004-Winter, 2006.

Chair: Faculty Search Committee – Fall 2002- Winter, 2003.

Chair: Faculty Search Committee –Fall 2001-Winter, 2002.

Member of CJ Faculty Evaluation Committee - Fall, 2002.

CJ Faculty Liaison w/ Library, 2002.

Member of SCJ Faculty Evaluation Committee (Fall, 2002) - established criteria for contract renewal, tenure and promotion in the SCJ.

CJ Search Committee Member, Fall, 2000-Winter, 2001.

CJ Curriculum Member: Fall, 2000-Winter, 2001.

School of Criminal Justice Search Committee Member, Fall 1997 to 2001.

**TRAINING-RELATED
ACTIVITIES/SERVICES:**

Juvenile Probation Officer Safety Training: Kent County, MI: June, 2017

Juvenile Probation Officer Safety Training: Muskegon, MI. June, 2015.

Use of Force/Firearms Consultant: Spectrum Health Police, Grand Rapids,, MI: 2009-2010.

Firearms Trainer: Connecticut State Police Academy: May, 2008.

Grand Rapids Community College: Firearms Trainer, May 1996 to December, 2006.

Hidden Firearms/Weapons: Spectrum Security Police (PA 330). November, 11, 2005.

Law Enforcement Officer's Safety Act/Firearms Update: Spectrum Security Police (PA 330). Dec, 2004.

Firearm's Trafficking/Legal Update: Spectrum Security Police (PA 330). Need Date, 2003.

Instructor/Trainer: Walker P.D: Rapid Response/Simunitions® Training for all of its officers: December 27th & 28th, 2004.

Patrol Rifle Training: City of Walker, MI Police Department: June, 2002.

**TRAINING-RELATED
ACTIVITIES/SERVICES:**
(cont.)

CCW Training (40 hours). Spectrum Security Police (PA 330): April, 2002.

Rapid Response Regional Police Training (West Michigan Criminal Justice Training Consortium): March, 2001.

Building Searches Training: Spectrum Security Police (PA 330); February, 1999.

Security Training: Studio 28 Theaters: Crowd Control; Internal and External Security: March 31, 1998.

Firearms Safety: Butterworth Security Police: January 27 & 28, 1998.

Shopping Safety & Home Security During the Holiday (Training): Mary Free Bed Hospital: December, 1, 1997.

Home & Vehicular Safety Training: Mary Free Bed Hospital: November, 17, 1997.

Workplace Safety & Security Training: Mary Free Bed Hospital: October, 29th, 1997.

Personal Safety Training: Mary Free Bed Hospital: September 26, 1997.

PA 330 Training: Butterworth Hospital; September 1995 to April 1996 (120 hour certification program).

Gang Awareness Training: Mary Free Bed Hospital, Grand Rapids Michigan: June, 1996.

Self Defense Training: Mary Free Bed Hospital: March, 1996.

**CONSULTING
ACTIVITIES:**

Expert Witness: Law firm of Michael Best & Friendship, LLP (Milwaukee, WI). Expert opinion for a federal case (Federal District of Idaho); July, 2014.

Litigation Consultant: United States Department of Justice, Western District of Michigan, 2010.

Firearms Policy Review & Recommendations: Spectrum Health System, Summer, 2010.

City of Grand Rapids Housing Commission Member– Security Report/Recommendations Report, 2007 & 2010.

City of Grand Rapids Police Department Community Relations Report – Internal Affairs Unit Annual Report, 2004 (statistical analysis & co-author of final report).

Expert Witness: Opinion regarding MARK M. MILLER and CHRISTIAN R. FREEMAN Plaintiffs vs. ERIC SCHUYLER, VILLAGE OF DOUGLAS, CITY OF SAUGATUCK, SAUGATUCK/DOUGLAS POLICE DEPARTMENT, Defendants, 2004.

**CONSULTING
ACTIVITIES:**
(cont.)

JUSTEX Inc, Huntsville Texas: Police Promotional Exam Writer: 2002 & 2003.

Subject Matter Expert (SME): Legislative committee member on state legislation related to "Shall Issue" CCW legislation. Later also served as a SME related to the required training pursuant to the new CCW legislation, 2002.

Subject Matter Expert (SME) - Physical Fitness Standards. Michigan State Police, Michigan Commission on Law Enforcement Standards, 2002.

Subject Matter Expert (SME) – MCOLES Domestic Violence Curriculum Redesign, 2002.

Security Consultant: Mary Free Bed Hospital: Grand Rapids, MI. Security Audit; Assisted in the creation of proprietary security department (Audit, December 2000). May, 1995 – 2001.

Subject Matter Expert: CCW Legislation & Training. Michigan Commission on Law Enforcement Standards, January - May, 2001.

Security Consultant: East Kentwood Schools: Security Survey and assisted in the creation of proprietary security department for the school system. March 25, 1998. Ongoing relationship with the School System.

Subject Matter Expert: MCOLES Firearms Standards for Police Recruits; January - July, 1999.

Security Consultant: Caretrac Rehabilitation Services, Grand Rapids, MI: Security Survey. April - June 1998.

Security Consultant: The Lodge at Yarrow, Augusta, MI: August – December, 1997.

Technical Advisor: The Educational Institute of the American Motel & Hotel Association, July, 1997.

**COURSES
TAUGHT:**

Graduate:

Criminal Justice Systems (CJ 7030). University of Wisconsin-Platteville, Fall & Spring Semesters, 2008 to present (on-line).

Criminology (CJ 7250). University of Wisconsin-Platteville, Summer, 2013 (on-line).

Contemporary Issues in Law Enforcement (CJ 690). University of North Alabama: Spring Semester, 2008.

Comparative Criminology (CJ 660). University of North Alabama: Fall Semester, 2008.

**COURSES
TAUGHT:**
(cont.)

Advanced Criminology (CJ 650). University of North Alabama: Summer Semesters, 2008 & 2009 (on-line).

Advanced Private Security Systems (CJ 623). Grand Valley State University: Fall Semesters, 2001, 2002, & 2010.

Advanced Police Systems (CJ 620). GVSU, Winter Semesters 2001-2004, 2011 & 2017; Fall, 2018.

Crime Typologies (CJ 618). University of North Alabama: Fall Semester, 2007; Spring, 2009; Summer, 2009.

Policy Analysis (CJ 604). Grand Valley State University. Winter Semester, 2007 & 2015.

Research Utilization in Criminal Justice (CJ 507). Northern Michigan University Fall Semester, 2008 (on-line).

Undergraduate:

Issues in Criminal Justice (CJ 495). Grand Valley State University: Summers, 2009-present, Spring & Fall, 2011 –present.

Crime Control & Justice Policy (CJ 470). Grand Valley State University: Fall Semester, 1994; Summer & Fall Semesters, 1995, Winter Semester, 1997, 1998 & 1999.

Security Administration and Legal Issues (CJ 464). Grand Valley State University: Winter Semesters, 1995 – 2007, 2009-present.

Juvenile Justice Administration & Legal Issues (CJ 462). Grand Valley State University: Winter Semester, 2000.

Police Management & Legal Issues (CJ 461). Grand Valley State University: Academic School Years, 1995 to 2009.

Law Enforcement Physical Education, Defensive Tactics & Firearms (CJ 415). Grand Valley State University. Spring/Summer Semester, 1996 – 2003.

Police-Community Relations (CJ 410). Grand Valley State University: Fall Semester, 1994.

Forensic Investigation (CJ 406). University of North Alabama: Spring Semester, 2009.

Crime Prevention Through Environmental Design (CJ 380). Winter Semester, 1999.

Corrections Process (CJ 365) Michigan State University: Fall Term, 1991.

Criminal Typologies (CJ 360). University of North Alabama: Fall Semester, 2007 & 2008.

Human Rights (CJ 325). Grand Valley State University, Summer, 2018; Fall 2018.

**COURSES
TAUGHT:**
(continued)

Principles of Security (CJ 315). Grand Valley State University; Fall Semesters, 2004 to present.

Police Organization & Community Relations (CJ 315). University of North Alabama: Spring Semester, 2008 & 2009.

Police Process (CJ 312). Grand Valley State University. Winter & Fall Semesters, 2003-present.

Criminal Law (CJ 302): Grand Valley State University: Winter Semester, 1999.

Criminology (CJ 301). Grand Valley State University: 1994 to 2006; Fall, 2014.

Research Methods (CJ 300). Grand Valley State University: Fall, 2010.

Loss Prevention Management & Human Resources (CJ 276). Northern Michigan University (on-line). Winter Semester, 2007.

Legal Aspects of Retail Loss Prevention (CJ 275). Northern Michigan University (on-line). Winter & Spring Semesters, 2007.

Introduction to Criminal Justice (CJ 250). University of North Alabama: Fall & Spring Semesters, 2008-9.

Criminology (Soc/CJ 220). Michigan State University: Summer Term, 1993.

Firearms (CJ 175). Grand Rapids Community College: 1996 to 2006.

Introduction to Corrections (CJ 105). Grand Rapids Community College: Winter & Fall Semesters, 2006.

Introduction to Criminal Justice (CJ 101). Grand Valley State University: Winter Semester, 2003; Winter Semester, 2006, 2012; Fall, 2012.

Introduction to Criminal Justice (CJ110). Michigan State University: Fall, Winter, and Spring Terms, 1990 - 1991.

Introduction to Corrections (CJ105). Grand Rapids Community College, Winter & Fall Semesters, 2006.

AWARDS RECOGNITION:

- Outstanding Contribution to the Discipline Recipient: GVSU, 2016.
- James L. Maddex Jr. Paper (Article Competition: Criminal Justice Review) of the Year Award: Finalist/Runner Up, 2010.
- Outstanding Contribution to the Discipline Recipient: GVSU, 2010.
- Outstanding Leadership Award: Security & Crime Prevention Section, ACJS, 2008.
- Professor of the Year, Alpha Phi Sigma (GVSU): 2003.
- Literati Club Award for Literary Excellence – Highly Commended: Criminal Forfeiture: An Effective Alternative to Civil Administrative Proceedings, 1997.
- Warren & Mary Frances Huff Professional Development Award: April 22, 1996.

GRANT WORK:

- Blue Courage Evaluation Team (IADLEST & Bureau of Justice Assistance), 2016-2018. Principle Investigator.
- Supreme Court Administrator's Office (SCAO) Child Protection Mediation, 2016-present. Co-Investigator.
- Michigan Association of Drug Court Professionals. Ignition Interlock Evaluation: Co-Investigator; 2011- 2015.
- USDOJ Grant 2011-DC-BX-0026 (\$46,901). Drug Courts. Principal Investigator.
- Marina Security Grant (\$548) 2009. Internal Grant (UNA). Principle Investigator.
- USDOJ Grant 2008-CK-WX-0425 (\$120,000). COPS Grant: Investigator.
- "Der Weg der 118" Grant (\$4,773): 2008. Internal Grant (UNA). Principle Investigator.
- Northwest Staff & Command at GVSU (\$115,000). Grant Administrator. April - December, 2001.
- Disproportionate Representation of Female and Minority Youth in Juvenile Justice in Michigan (DROFAMY). East Lansing, MI: June 1991 to June 1993. Site Coordinator/Investigator.

SERVICE ACTIVITIES:

- State of Michigan, Court Rules Committee Member (Child Protection Mediation): May, 2016 to 2018.
- Interview: *ACS News*. "Murder charges raise questions about bounty hunters" May 11, 2017
- Interview: *Des Moines Register*: "Assault, drug dealing: many Iowa bail bondsmen have checkered pasts." April 27, 2017
- Interview: *Pacific Northwest Inlander*: Control of bounty hunters varies state to state, creating a largely self-regulated industry. Feb 18, 2016.
- Interview: *The Atlantic*. "Does the Bounty Hunting Industry Need Reform?" July 23, 2015
- Presenter: Eric Garner & Racism (GVSU): February 11, 2015
- Presenter: Safety & Security in the Workplace (for Probation Officers). Muskegon, MI: August 6th, 2014
- Presenter: Safety & Security in the Workplace (for Juvenile Court Employees). Vision 20/20 Conference (Grand Rapids, MI): May 8th, 2014.
- Secretary/Treasurer: Security & Crime Prevention Section, ACJS: 2012-present
- ACJS Affirmative Action Committee Member, 2011 to present.

**SERVICE
ACTIVITIES:**
(cont.)

- Academy of Criminal Justice Sciences, 2010 to present.
- GVSU Freshman Orientation & Student Transfer Advising, 2010-present.
- Journal Manuscript Reviewer: Asian Journal of Criminology, 2011.
- Loss Prevention Foundation: Academic Committee, 2007-2010; 2015-present.
- Community Partnership Member: Grand Rapids Housing Commission: 2009-2014.
- Fort Wayne News-Sentinel Interview: Risky shots at car are "last resort." June, 03, 2008.
- West Michigan Oktoberfest – Security Advising/Service Learning Coordinator: 2008-2015.
- Faculty Advisor: GVSU Pistol & Rifle Club, 2007 to present.
- Chair: ACJS Security & Crime Prevention Section, 2017-present.
- Vice Chair: ACJS Security & Crime Prevention Section, 2006-2007.
- Journal Manuscript Reviewer: Journal of Applied Security Research, 2007 to present.
- Journal Manuscript Reviewer: Journal of Criminal Justice Education, 2008 to present.
- Journal Manuscript Reviewer: Southwest Criminal Justice Journal, 2008 to present.
- Journal Manuscript Reviewer: A Critical Journal of Crime, Law and Society, 2008 to present.
- Journal Manuscript Reviewer: Security Journal, 2007 to present.
- Journal Manuscript Reviewer: Journal of Criminal Justice, 2006 to present.
- Journal Manuscript Reviewer: Police Quarterly: May, 1998 to present.
- Grand Rapids Community College Police Academy; Advisory Board Member, 2001-2007.
- TV 8 Interview: Opinion of GRPD Collecting Crime Statistics: January 6th, 2006.
- East Kentwood Schools –Advisor to System's Security Program, 1998 – present.
- Created & administered training program for Spectrum Health – PA 330 Security Police Academy - 128 hour program: Fall Semester 2005 & Winter Semester, 2006.
- Guest Speaker: USA Job Corps, Grand Rapids Michigan, Feb-April, 2006.
- Volunteer: GRCC Police Academy Scenario Training: October 29th, 2005.
- TV 8 Interview: Armed Robbery/Homicide at Meijer in Wyoming. July, 2005.
- TV 8 Interview- Armed Robbery Issue: Older men as bank robbers. Aug 24th, 2005.
- TV 8 Interview – Armed Robbery /Profiles of Robbers. September, 2005
- Wood TV 8 Interview: Armed Robbery. November 22, 2005.
- WZZM TV 13 Interview: Armed Robbery. November 29, 2005.
- Lecturer – Lorman Educational Services: Police Indiscretion: Litigation and Claims Avoidance Strategies in Michigan, April, 22nd, 2005.
- Wood TV 8 Interview – Robbery/Homicide Incident, June, 2005.
- Assisted MSU & Lakeland College (WI) in security-related survey research, 2004.
- Grant Reviewer: National Geographic Society. The Bush Meat Trade in Africa, 2004.
- Assessment Center Assessor; Walker P.D. August 9th, 2003.
- GVSU Representative: West Michigan Criminal Justice Training Consortium, 2002.
- Tri-Cities High School Police Academy Coordinator: Summer 2002 (40+ hour program).
- Coordinator: Emergency Vehicle Operations Training for City of Walker Police Department (2 day training program): June, 2002.
- Detroit Press Interview: Joint Crime Unit has Pros, Cons, Farmington Hills Chief Points Out Success; February 2, 2001:

**SERVICE
ACTIVITIES:**
(cont.)

- Coordinator of Cooperative Security venture between Mary Free Bed and GVSU: August, 1995 to 2001.
- Radio Show – WGVU in August 2000: Topic – General Crime & Gun Control; August, 2000.
- Radio Show – WGVU: Topic – Private Security Issues: December, 2000.
- WGVU Radio: Crime Prevention Radio Spots, December, 2000
- MCOLES Task Force Member: Assisted MCOLES staff in drafting administrative rules related to police officer Selection & Employment Standards: November, 1999 to 2000.
- Grandville High School Security Project: Advisor, September, 1999 to 2000.
- Muskegon Chronicle Interview: Police Academy Recruits: July 20, 1999.
- U.S. Department of Justice, Bureau of Justice Statistics, October, 1998: Reviewer for School Crime Supplement to the NCVS, 1998.
- Detroit Press Interview: Bank Robberies: Why have they decreased in Metro Detroit? October 12, 1998.
- Military Operations & Urban Combat Training: United States Department of Agriculture (Fort Custer, MI): September 3, 1998.
- Guest Instructor: Tri-Cities High School Police Academy: June 18th, 1998.
- TV 8 Interview: Career Opportunities in Law Enforcement: June, 1998.
- Wood Radio Interview: Radio interview. Topic: Violence in the Workplace: July 27, 1998.
- Grand Rapids Press Interview: Topic: Phony calls to the Police: September, 1998.
- Interview: Parking Security Report, 8(5), 3-4; August 1997: Topic: Interview: GVSU's internship program in security.
- Interview – Grand Rapids Press: Filing False Police Reports: November 17, 1997.
- Member: Newago County Ad Hoc Advisory Committee for Criminal Justice Programs: 1997-1998.
- Speaker/Presenter: Sixth Annual Tourism Update, October 28, 1996. Crisis/Emergency Planning.
- TV 13 Interview: Serial Murder/Homicide, October 4, 1996.
- TV 13 Interview: Police Off-Duty Conduct: August 7th, 1996.
- Wood Radio Live Interview: Michigan's CCW Laws. August 16, 1996.
- Speaker: Tri-Cities High School Police Academy, June 20, 1996. Topic: The GVSU Police Academy.

-end-

KAHRS LAW FIRM, P.S.

2208 NW Market St., #414
Seattle, WA 98107

Michael C. Kahrs, Esq.

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Fax: 206.237.8555

April 19, 2019

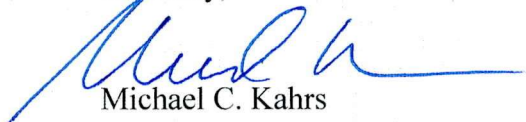
Clerk of the Court
Court of Appeals, Division II
950 Broadway Suite 300
Tacoma WA 98402-4454

Re: In re Personal Restraint of Jason Stomps

Dear Sir or Madam:

Enclosed, please find the Personal Restraint Petition of Mr. Stomps for filing. I have enclosed a check for the filing fee of Two Hundred Fifty Dollars and No/100 (\$250.00). Thank you for your attention to this matter.

Sincerely,



Michael C. Kahrs
Attorney at Law

MK:mk

cc: Jason Stomps

RECEIVED

APR 22 2019

CLERK OF COURT OF APPEALS DIV II
STATE OF WASHINGTON